Office-Supreme Court, U.S.
FILED
MAY 31 1985
ALEXANDER L. STEVAS,
CLERK

No. 84-1361

In the Supreme Court of the United States

OCTOBER TERM, 1984

UNITED STATES OF AMERICA, PETITIONER

v.

KENNETH MOSES LOUD HAWK, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED FEBRUARY 26, 1985
CERTIORARI GRANTED APRIL 15, 1985

BEST AVAILABLE COPY

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 76-1906
Consolidated with 76-2127

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

KENNNETH MOSES LOUD HAWK, ET AL.,
DEFENDANTS-APPELLEES.

RELEVANT DOCKET ENTRIES

1976	
Apr 22	Docketed cause & entered appearances of counsel. jr
Apr 26	Filed aplt's motion for an order continuing the May 12, 1976 trial date, etc. pending appeal to (Schickele). jr
Apr 26	Filed Appellees' opposition to the appellant's request 4/23/76 for stay.
Apr 26	Filed order (Browning and Duniway) upon due consideration, the motion for an order continuing the trial date is denied. jr
Apr 28	Rec'd from appellant letter dated Apr 27, 1976, requesting that Exhibits D (attached to Motion for Order continuing the May 12, 1976 trial date) be replaced with the enclosed certified copy of Motion for Continuance, which is marked Exhibit D.
May 21	Filed cert transc record on appeal in thirteen volumes: vols., pldgs, three cert copies each; vols. V-XIII, rptrs transc, orig. & two copies each. cjb

June 3 Filed appellant's motion for an order consolidating appeals 76-1905 & 76-2127. to "C" cc

June 3 Filed order (C) for time schedule: 1) abstract of record etc., due no later than 6-2-76; 2) aplt's opening brief due no later than 6-30-76. 3) Aple's brief due no later than 7-21-76; 4) aplt's final brief due no later than 8-4-76; 5) this case is now calendared for hearing during the week of 9-7-76; fn

June 3 Filed cert suppl record on appeal: one volume of add'l pldgs, Vol. IV(A), three cert copies. One envelope in LPS. Record now in fourteen volumes. cjb

Jun 11 Filed order (C) consolidating 76-1906 and 76-2127 on appeal.

Jul 1 Filed 25 Aplt's Briefs (6/28/76) dmf

July 1 Filed aples motion (Hawk et al) for oral argument in Portland. to "C"

July 6 Filed order (C) In re: Argument in Portland, "Clerk will note Request." fn

Jul 19 Filed aple's motion (D. Banks) in opposition to oral argument being held in Portland, Oregon. to Schickele

Jul 21 Filed 4 Aplees' Briefs (7/21/76) dmf

Aug 3 Filed 25 Aplt's Reply Briefs (8/2/76 dmf

Aug 17 Rec'd aplt's letter of Aug 16, 1976, re case of *US v. Higginbotham.*

Oct. 15 Cause argued & submitted before: Ely, Hufstedler, & Trask, CJJ

Dec. 10 Filed Cert suppl record on appeal in four Vols: one vol of pldgs, Vol. IV(B), Cert. & two copies & three Vols. of R/T, vols IV-VI, Orig. & two copies. Record now in eighteen volumes. (to panel) vt

1977

July 26 Filed Opinion (Hufstedler) Trask dissenting, filed & judg to be filed & entd

July 26 Filed opinion—Affirmed

July 26 Filed & entd Judgment. fn

Aug 2 Aplt's (USA) emergency motion for an order extending the time in which to file a petition for rehearing with a suggestion for rehearing en banc. 8-1 (panel) bc

Aug 11 Filed, as of Aug. 2, order (H) Aplts emergency motion for an order extending the time to and including Sept. 8, 1977 in which to file a petition for rehearing with a suggestion for rehearing en banc is granted. fn

Aug 12 Rec'd, as of Aug 11, memorandum from Judge Trask, upon receipt of this notice you will not issue the Court's judgment until notice from the Chief Judge or the En Banc Coordinator. bc

Sept 7 Filed (orig. & 24) aplt's Petition for Rehearing w/suggestion for rehearing en banc. 9/6 active judges ec

Oct 25 Filed as of Oct. 17, ordr (BR, E, H, W, T, CY, G, WL, KY, A. & HUG, CJJ) Upon the request of a regular active judge of this court that the appeals 76-1906 & 76-2127 be taken en banc, vote was called, and upon vote of a majority of the regular active judges it is ordered that the assignment of the above entitled cases #'s 76-1906 & 2127 heretofore made Judges Ely, Hufstedler, and Trask is withdrawn. The case will be submitted to the court sitting en banc, to be argued at S.F. at 1:30 P.M.—fn *The Honorable Joseph T. Sneed recused himself from consideration of this matter.

Oct. 25 CASE RE-OPENED, as of Oct. 17, 1977.

Oct. 26 Filed Appellees' Emergency motion pursuant to Rule 6(g) for an order extending the time for oral argument from Nov. 9, 1977, to a date thirty (30) days thereafter. (active judges) ec (10-24-77)

Oct. 27 Filed Appellees' motion for reconsideration and vacation of order allowing petition for rehearing en banc. 10-26 (active judges) ec

Nov 2 Filed Notice of appearance of Karen Spelice as co-counsel for appellee Dennis James Banks. ec

Nov 3 Rec'd aplt's letter dated Oct 31, re addl authorities. (active judges) ec

Nov 4 Filed, as of Nov. 1, order (BR, E, H, W, T, CY, G, WL, KY, A, & HUG, CJJ) Aples' emergency motion for continuance is denied.

Nov. 8 Rec'd in 76-2127, from aple (Dennis Banks) letter dated 11/8, re: issue of destruction of evidence. (active judges)

Nov. 9 Argued and submitted to BR, E, H, W, T, CY, G, Wl, KY, AG, HG, en banc (Judge Sneed recused himself in this case)

1978

Feb 2 Rec'd from U.S. Atty. letter dtd. 1/31, re case of US v. Picaricel (active judges) ec

Mar 8 Filed, as of Mar. 6, order (BR, E, H, W, T, CY, G, WL, KY, A, & HG (ELY & CY DISSENTING)) This case is remanded to the D.C. with instructions to conduct evidentiary hearings and to make specific findings of fact with respect to the following matters: (SEE CASE FILE). This case [*sic*] retains jurisdiction of this case and requests the D.C. to hold hearings and make findings pursuant to this limited remand within 45 days of the date of this order, or as soon thereafter as practicable. fn

May 3 Filed, as of May 1, in 75-2293, order (BR, KL & T) The order of submission entered in this case #75-2293, on May 10, 1977 is vacated pending a final decision by the U.S. Court of Appeal (En Banc) of *U.S. v. Loud Hawk, et al.*, Nos. 76-1906 and 75-2124 at which time

the case will be automatically resubmitted. fn

Jun 23 Recvd from DC cert copy order extending time for the parties to file proposed findings of fact to July 14, 1978. (court) ec

Aug 29 Rec'd as of Aug. 28, from the D.C., Findings of fact and conclusions of Law which was filed in the D.C. Aug. 23, (Pursuant to Order of Mar. 6, 1978). (To all the judges listed on the above order of Mar. 6, 1978). fn

Sep 18 Filed cert supplemental record on appeal: one envelope of exhibits in LPS (R/T dated 5/9 & 5/10, 1978). To Trask (per Mancini) -dmf-

Oct 10 Sent Originals R/T's, Vols 5-16, to Judge Kennedy

Dec 4 Filed Aplt's (USA) add'l citations. (Active judges)

1979

May 4 Rec'd, as of 5/3/79, Aplt's (USA) add'l citations. (active judges)

Aug 13 Filed, as of 8/7/79, order (BR, E, H, W, T, CY, G, WL, KY, A & HG) The order of 10/17/77, is amended as follows: The opinion previously filed on July 26, 1977, is withdrawn.

Aug 13 As of 8/7/79, ordered opinion (Trask); Kennedy concurring; Goodwin specially concurring (Wright & Trask join); Hufstedler dissenting (Ely & Hug concur); Ely dissenting; filed & judgment to be filed & entered. nw

Aug 13 As of 8/7/79, Filed opinion—We REVERSE the orders of the district court granting aples' motions to suppress and to dismiss the indictment with prejudice. Further, we REMAND the cause to the district court with instructions: (1) to deny aples' motion to suppress, (2) to reinstate the indictment as to the dynamite counts, and (3) to reconsider its dismissal of the nondynamite counts with prejudice in light of this opinion.

Aug 13 As `8/7/79, Filed & entered judgment

Aug. 17'79 Filed Orig. & 24 Appellee's Petition For Rehearing En Banc for 76-1906 & 76-2127. (8/16/79. Panel & all active judges. ff

Aug. 20'79 Filed Letter of 8/17/79 from Appellee's advising Court at two word errors in Petition and Corrections to be noted. (8/17/78). Panel & all active judges.

Sep 19 Filed, as of 9/13/79, Order 9BR, E, H, W, T, CY, G, WL, KY, A & HG) It is ordered that Footnote 3 of the separate opinion of Judge Kennedy be deleted and the following language substituted in its place: 3. In United States v. Heiden, 508 F.2d 898 (9th Cir.1974), a panel of this circuit stated that where evidence has been lost or destroyed the conviction will be reversed if the defendant can show "(1) bad faith or connivance on the part of the Government, or (2) that he was prejudiced by the loss of the evidence." As the discussion in *Heiden* demonstrates, "prejudice" as used there means serious impairment of the accused's ability to presert his defense. In cases of severe prejudice the *Heiden* formulation would lead to the same result as under the test set forth in this case, and we think, therefore, that our holding here is not wholly inconsistent with *Heiden*. Whether or not the *Heiden* test can be reconciled with this case, however, it is the test set forth here and not the one in *Heiden* which should be deemed controlling in all future cases. -pb-

Oct 3 Filed, as of 10/1/79, order (BR, F, H, W, T, CY, G, WL, KY, A & HG) The petition for rehearing is REJECTED.

Oct 5 Filed Apl's motion to stay issuance of mandate pending application for writ of certiorari. (10/5/79) (Hufstedler) -pb-

Dec 3 Filed, as of 11/27/79, Order (BR, E, H, W, T, CY, G, WL, KY, A & HG) The following

changes should be made in the slip opinion: CASE FILE. -pb-

Nov. 30 Received SC notice for filing petition for cert on 11/28/79, SC #79-5687

Dec. 11 Sent to Solicitor General, Vol. I, CA Proceedings, Vols. II-VII, Pleadings, Certified mail #2288907 -cde-

1980

March 11 Filed certified copy of SC order of 3/3/80, denying cert. pn

Mar 11 Mandate issued.

RECORD RET'D DATE: APR 3, 1980
Pldgs: Vol(s)
R/T's: VOl(s) 5-13 orig. & 2 cy's
Exch's:___ Br.,1__Env, ( ) Sealed
Ctfd Mail No. 6561070

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 76-2127
Consolidated with 76-1906

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

KENNETH MOSES LOUD HAWK, ET AL.,
DEFENDANTS-APPELLEES.

RELEVANT DOCKET ENTRIES

1976	
May 20	Docketed cause & entd appearances of counsel -fn-
May 21	Filed in 76-1906, cert transc record on appeal in thirteen volumes: VOls. I-IV, pledgs, three cert copies each; Vols. V-XIII, rptrs transc, orig. & two copies each. -cjb-
June 3	Filed in 76-1906, appellant's motion for an order consolidating appeals 76-1906 & 76-2127. to "C" cc
June 3	Filed in 76-1906 order (C) for time schedule::1) abstract of record etc., due no later than 6-2-76; 2) aplt's opening brief due no later than 6-30-76; 3) aple's brief due no later than 7-21-76 4) aplt's final brief due no later than 8-4-76; 5) this case is now calendared for hearing during the week of 9-7-76; -fn-
June 3	Filed in 76-1906, cert suppl record on appeal: one volume of add'l pldgs, Vol. IV(A), three cert copies. One envelope in lps. Record now in fourteen volumes. -cjb-
Jun 11	Filed, in 76-1906, order (C) consolidating 76-1906 and 76-2127 on appeal. -dmf-

FOR FURTHER PROCEEDINGS, SEE 76 -906

Oct. 15	Cause argued & submitted before: Ely, Hufstedler, & Trask, CJJ -mc-
1977	
July 26	Ordered opinion (Hufstedler) Trask dissenting, filed & judg to be filed & entd
July 26	Filed opinion—AFFIRMED.
July 26	Filed & Entd Judgment. -fn-
Aug 2	Filed, in 76-1906, Aplt's (USA) emergency motion for an order extending the time in which to file a petition for rehearing with a suggestion for rehearing en banc. 8-1 (panel) -bc-
Aug 11	Filed, as of Aug. 2, in 76-1906, order (H) Aplts emergency motion for an order extending the time to and including Sept. 8, 1977 in which to file a petition for rehearing with a suggestion for rehearing en banc is granted. -fn-
Aug 12	Rec'd, as of Aug 11, memorandum from Judge Trask, upon receipt of this notice you will not issue the Court's judgment until notice from the Chief Judge or the En Banc Coordinator. -bc-
Sept 7	Filed in 76-1906, aplt's (orig. & 24) Petition for Rehearing w/Suggestion for rehearing en banc. active judges -ec-
Oct 25	Filed, as of Oct. 17, in 76-1906, order (BR, E, H, W, T, CY, G, WL, KY, HUG, CJJ) Upon the request of a regular active judge of this court that the appeals 76-1906 & 76-2127 be taken en banc, vote was called, and upon the vote of the majority of the regular active judges it is ordered that the assignment of the above entitled cases #'s 76-1906 & 2127 heretofore made Judges Ely, Hufstedler and Trask is withdrawn. The case will be submitted to the court sitting en banc, to be argued S.F. at 1:30 p.m. -fn-
Oct 25	Case Re-Opened, as of Oct. 17, 1977.

Oct 26 Filed in 76-1906, aples' emergency motion pursuant to Rule 6(g) for an order extending the time for oral argument from Nov. 9, 1977, to a date thirty (30) days thereafter. (active judges) ec

Oct 27 Filed in 76-1906, appelees' motion for reconsideration and vacation of order allowing petition for rehearing en banc. (active judges) ec

Nov 2 Filed in 76-1906, notice of appearance of appearance of Karen Spelice as Co-counsel for appellee Dennis James Banks. ec

Nov 3 Rec'd in 76-1906, from aplt (USA) letter dated 10/31, re addl authorities. (active judges) ec

Nov 4 Filed, as of Nov. 1, in 76-1906, order (BR, E, H, W, T, CY, G, WL, KY, A, & HUG, CJJ) Aples' emergency motion for continuance is denied, in case #'s 76-1906 & 2127. -fn-

Nov 8 Rec'd from aple (Dennis Banks) letter dated 11/8, re: issue whether gov't should be held liable for the destruction of evidence in this matter. (active judges) ec

Nov 9 Argued and submitted to BR, E, H, W, T, CY, G, WL, KY, A, HG. (Judge Sneed recused himself in this case)

1978

Feb 2 Rec'd, in 76-1906,letter dtd. 1/31, from U.S. Atty, re case US v. Picariello. (active judges) ec

Mar 8 Filed, as of Mar. 6, in 76-1906, order 9BR, E, H, W, T, CY, G, WL, KY, A, & HG); ELY & CHOY DISSENTING; This case is remanded to the D.C. with instructions to conduct evidentiary hearings and to make specific findings of fact with respect to the following matters: (SEE CASE FILE). This case [*sic*] retains jurisdiction of this case and requests the D.C. to hold hearings and make findings pursuant to this limited remand within 45 days of the date of this order, or as soon thereafter as practicable. -fn-

May 3 Filed, as of May 1, in 76-2293, order (BR, KL & T) The order of submission entered in this case #75-2293, on May 10, 1977 is vacated pending a final decision by the U.S. Court of Appeals (En Banc) of *U.S. v. Loud Hawk, et al.*, Nos. 76-1906 and 76-2127, at which time the case will be automatically resubmitted. -fn-

Jun 23 Recvd in 76-1906, from DC cert copy order extending time for the parties to file proposed findings of fact to July 14, 1978. (Court)

Dec 4 Filed in 76-1906 Aplt (USA) add'l citations. (Active Judges)

1979

May 4 Rec'd, as of 5/3/79, in 76-1906, Aplt's (USA) add'l citations. (active judges) -nw-

Aug 13 Filed, as of 8/7/79, in 76-1906, order (BR, E, H, W, T, CY, G, WL, KY, A & HG) The orrer of 10/17/77, is amended as follows: The opinion previously filed on July 26, 1977 is withdrawn. -nw-

Aug 13 As of 8/7/79, ordered opinion (Trask); Kennedy concurring; Goodwin specially concurring (Wright & Trask join); Hufstedler dissenting (Ely & Hug concur); Ely dissenting; filed & judgment to be filed & entered. -nw-

Aug 13 As of 8/7/79, filed opinion—We REVERSE the orders of the district court granting aples' motions to suppress and to dismiss the indictment with prejudice. Further, we REMAND the cause to the district court with instructions: (1) to deny aples' motion to suppress, (2) to reinstate the indictment as to the dynamic counts, and (3) to reconsider its dismissal of the nondynamic counts with prejudice in light of this opinion.

Aug 13 As of 8/7/79, filed & entered judgment. JS/34 -nw-

Aug 17 Filed in 76-1906 Orig. & 24 appellee's Petition For Rehearing en Banc. (8/15/79). Panel & all active judges.

Aug 20 Filed in 76-1906 Letter of 8/17/79 from appellee's advising Court of two word errors in Petition and Corrections to be noted (8/17/79). Panel & all active judges.

Sep 19 Filed, in 76-1906, as of 9/13/79, Order (BR, E, H, W, T, CY, G, WL, KY, A & HG) It is ordered that Footnote 3 of the separate opinion of Judge Kennedy be deleted and the following language substituted in its place: 3. In United States vs. Heiden, 508 F.2d 898 (9th Cir. 1974), a panel of this circuit stated that where evidence has been lost or destroyed the conviction will be reversed if the defendant can show "(1) bad faith or connivance on the part of the Government, or (2) that he was prejudiced by the loss of the evidence." As the discussion in *Heiden* demonstrates, "prejudice" as used there means serious impairment of the accused's ability to present his defense. In cases of severe prejudice the *Heiden* formulation would lead to the same result as under the test set forth in this case, and we think, therefore, that our holding here is not wholly inconsistent with *Heiden*. Whether or not the Heiden test can be reconciled with this case, however, it is the test set forth here and not the one in *Heiden* which should be deemed controlling in all future cases. -pb-

Oct 3 Filed, as of 10/1/79, in 76-1906, order (BR, E, H, W, T, CY, G, WL, KY, A & HG) The petition for rehearing is REJECTED. -nw-

Oct 5 Filed, in 76-1906, aple's motion to stay issuance of mandate pending application for writ of certiorari. (10/5/79) (Hufstedler) -pb-

Nov 30 Received SC notice of filing petition for cert on 11/28/79, SC#79-5697. -pn-

Dec 3 Filed, in 76-1906, as of 11/27/79, Order (BR, E, H, W, T, CY, G, WL, KY, A & HG) The following changes should be made in the slip opinion SEE CASE FILE., -pb-

1980

March 11 Filed certified copy of SC order of 3/3/80, denying cert. -pn-

Mar 11 MANDATE ISSUED

RECORD RET'D Date: Apr 8, 1980
Pldgs: Vol(s) ___
RJI's: Vol(s) 5-13 Orig & 2 cy's
Leh's: ___, Bx, 1__ Env, ( ) Sealed
Cert Mail No. 6561070

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 80-1574
Consolidated with
80-1582, 80-1583, 80-1630

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE,

v.

DENNIS JAMES BANKS, DEFENDANT-APPELLANT.

RELEVANT DOCKET ENTRIES

1980	
Aug 20	Docketed Cause & Entered Appearances of Counsel. -pb-
Aug 22	Rec'd copy of Kenneth S. Stern, Esq. notice of appearance filed in D.C. 4/24/80; and copy of oral motion by counsel Bailey for the appointment of Kenneth Stern, as counsel for aplt filed in D.C. 5/12/80 (order to follow) -pb-
Aug 25	Recvd from DC copy of CJA filed 8/22/80 appointing Kenneth Stern as counsel. -ff-
Sept 2	Filed order (Clk for EAW) for Time Schedule: transcript ordered August 21, 1980; transcript due September 19, 1980; aplt's opening brief, excerpt of record & designation of clerk's record due October 10, 1980; aple's designation due October 24, 1980; aple's brief due October 31, 1980; aplt's reply brief due November 7, 1980. -nw-
Sept 15	Filed, as of 9/9/80, Order (CFP) Upon its own motion, the Court orders the above-captioned cases consolidated on appeal. The parties will observe the following time schedule: 1) The transcript is due Sept. 19, 1980; 2) Opening briefs, excerpts of record, and designation of the

clerk's record on behalf of aplts Kenneth Moses Loud Hawk, Russ James Redner, and Dennis James Banks are due October 3, 1980. 3) Designations of the record on behalf of the government in all cases are due October 10, 1980. 4) The government shall file a brief containing its response to the opening brief filed by aplts Loud Hawk, Redner and Banks no later that Oct. 17, 1980. This brief shall also contain the government's opening arguments as to defendant-appellee Kamook Banks. 5) The reply briefs, if any, on behalf of aplts Loud Hawk, Redner and Banks are due Oct. 24, 1980. 6) Aple Kamook Banks shall file her response brief no later than Oct. 28, 1980. This case will be calendared before a regular panel of this Court in Nov. 1980. The above schedule does not contemplate any extension of time and, absent extraordinary circumstances, no motions for extension of time will be considered. -pb-

Sept 25	Filed aplts' motion to transfer pleadings in United States v. Loud Hawk to this case as exhibits. (9/23/80) (panel) -pb- (for all aplts)
Sept 25	Filed aplts' motion for extension of time for filing brief. (9/23/80) (panel) -pb- (for all aplts)
Oct 1	Filed CERTIFICATE OF RECORD (9/26). -ss-
Oct 7	Filed, as of 10/2/80, order (Senior Deputy Clk for the Court) The above-captioned appeals calendared for Thursday, November 6, 1980 in Portland, Oregon, are removed from the calendar for that date. They will be recalendared, before any panel, at the earliest convenience of the Court. -nw-
Oct 7	Filed, as of 10/2/80, order (EAW) Aplts' motion of 9/25/80 for an ext of time to file the opening brief is granted. The parties will meet this schedule: 1) Opening briefs, excerpts of record & designation of the clerk's record on behalf of aplts Loud Hawk, Redner & D. Banks are due October 15, 1980; 2) Designations of the record

on behalf of the govt in all cases are due October 22, 1980; 3) The govt shall file a brief containing its response to the opening brief filed by aplts Loud Hawk, Redner & Banks no later than October 29, 1980. This brief shall also contain the govt's opening arguments as to aple Kamook Banks; 4) The reply briefs, if any, on behalf of aplts Loud Hawk, Redner & Dennis Banks are due November 5, 1980; 5) Aple Kamook Banks shall file her response brief no later than November 12, 1980. Absent extraordinary circumstances, no further exts of time will be granted, and aplts' failure to comply with the time schedule may result in a dismissal of the appeal, revocation of bail, and/or other sanctions. FRAP 31(c), 46(b), (c).

Oct 15 Filed, as of 10/9/80, order (EAW) Aplt's motion of 9/25/80 to augment the record with pleadings and briefs in the prior actions, nos. 76-1906 & 76-2127, is referred to the panel that hears this case on the merits. -nw-

Oct 16 Filed orig & 15 Aplt's consolidated brief & 5 excerpts (10/15). -pf-

Oct 24 Fld aples mtn for ext of time to file brief (CRIMATT) 10/23/80. -kf-

Nov 3 Filed, as of 10/30/80, order (WRIGHT) The govt's motion of 10/24/80 for an ext of time to file its brief is granted. The govt's brief is due November 3, 1980. Reply briefs on behalf of aplts Loud Hawk, Redner and Dennis Banks are due November 12, 1980. The response brief of aple Kamook Banks is due November 14, 1980. -nw-

Nov 3 Filed Aplts' Motion to Supplement Record on Appeal. (10/30) (CRIMATT) -nw-

Nov 3 Filed orig & 15 Aples ans & opening brief (11/3). -pf-

Nov 4 Filed as of 10/1 CERT RECORD ON APPEAL IN 22 VOLS, PLDGS, VOL I-VIII copy R/T VOL IX-XXII orig -pv-

Nov 13 Filed orig & 15 Aplt's reply brief (11/12). -pf- (PANEL)

Nov 18 Filed orig & 15 Aple (K. BANKS) resp brief (11/14). -pf- (PANEL)

Nov 20 Filed, as of 11/12/80, order (WRIGHT) The motion of 11/3/80 of aplts and aple Kamook Banks to augment the record with the "various letters" listed on the index of the record submitted by the district court clerk is granted. Aplts and aple Banks will file a supplemental designation of the record with the clerk of the district court. The supplemental material will be filed with this court no later than December 29, 1980. -nw-

Dec 12 Rec'd, as of 12/11/80, Aple's letter dated 12/8/80 re: additional citations. (12/8/80) (panel) -pb-

1981

Jan 7 Argued & submitted before: Kennedy, Ferguson, Reinhardt, CJJ. -lb-

Jan 28 Filed Aple's Additional Citation. (1/26/81) PANEL. -ff-

Feb 2 Filed as of 1/29/81, order (Kennedy, Ferguson & Reinhardt) Aplts' motion of 9/28/80 to transfer all pleadings in *U.S. v. Loud Hawk*, Nos. 76-1906 & 76-2127 to the record on this appeal is hereby granted. (to records) -nw-

Feb 4 Transferred record in five vols pldgs from appeal 76-1906/76-2127 pursuant to order of 1/29 -pv-

Jan 29 Rec'd voucher #433264 from counsel. -jr-

Feb. 4 Voucher returned to counsel for completion. -jr-

Feb. 9 Rec'd voucher from counsel with corrections. -jr-

Feb. 13 Voucher sent to panel judge for approval. -jr-

Feb. 25 Rec'd voucher from Kennedy approving amount claimed. -jr-

March 13 Voucher sent to Browning for approval of excess amount claimed. -jr-

March 16 Rec'd voucher from Browning approving amount claimed. -jr-

March 25	Voucher forwarded to Administrative Office with supporting papers. -jr-
June 19	Filed Aplt's Additional Citation. (6/16/81). PANEL. -ff-
1982	
Mar 18	Rec'd in 80-1574, Aple's Additional Citations. PANEL (Counsel notified to send proof of Service) -js-
Mar 22	Rec'd from Aple Proof of Service -js-
July 29	Ordered Opinion (Reinhardt) filed and judgment to be filed and entered. -js-
July 29	Filed opinion—Reversed in part as to Kamook Banks; appeals of Dennis Banks, Redner and Loud Hawk are dismissed for lack of jurisdiction. -js-
July 29	Filed and entered judgment. -js-
Aug. 12	Filed orig. & 33 aplts' Petition for Rehearing and Suggestion for Rehearing En Banc. (10p.) (8/11/82) Panel & all active judges. -ru-
Aug. 12	Filed in 80-1583 aplt's mtn. to substitute Counsel Of Record for Appeal for Appearance Only, etc. (8/11/82) Panel & all Active Judges. -ru-
Oct. 5	Filed Order (Kennedy, Ferguson & Reinhardt) The panel as constituted above has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc. The petition for rehearing is denied and the suggestion for rehearing en banc is rejected.
Oct 12	Filed Aplts' Motion to Stay Issuance of Mandate Pending Application for Writ of Certiorari. (10/8/82) Reinhardt -js-
Oct 18	Recv'd counsel's letter dated 10/15/82 requesting 60 days in support of 10/12/82 mtn. to stay the mandate. (10/15/82) Reinhardt. -ru-
Dec 7	Filed Order (SEN DEP CLK) Upon due consideration of aplt's motion for stay of the mandate of this Court in the above cause pending the filing, consideration and disposition by the Supreme Court of the United States of a petition

	for writ of certiorari, such petition to be filed in the Clerk's Office of the Supreme Court of the United States on or before Feb. 1, 1983, IT IS ORDERED that the motion for stay of mandate be, and the same is hereby granted.
Dec 13	Recvd SC notice of filing petition for cert on 12/3/82, SC#82-5828. -pn-
1983	
Jan 27	Filed certified copy of SC order of 1/10/83 denying cert. -dm-
Jan 27	MANDATE ISSUED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 80-1582
Consolidated with
80-1574, 80-1583, 80-1630

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE,

v.

RUSS JAMES REDNER, DEFENDANT-APPELLANT.

RELEVANT DOCKET ENTRIES

1980

Aug 25 ASSIGNED DOCKET NUMBER FOR APLT UNDER CJA. -nw-

Aug 26 DOCKET CAUSE AND ENTERED APPEARANCES OF COUNSEL. -nw-

Sept 2 Filed order (Clk for EAW) for Time Schedule: transcript ordered August 25, 1980; transcript due September 19, 1980; aplt's opening brief, excerpt of record & designation of clerk's record due October 10, 1980; aple's designation due October 24, 1980; aple's brief due October 31, 1980; aplt's reply brief due November 7, 1980. -nw-

Sept 15 Filed, in 80-1574, as of 9/9/80, Order (CFP) Upon its own motion, the Court orders the above-captioned cases consolidated on appeal. The parties will observe the following time schedule: 1) The transcript is due Sept. 18, 1980. 2) Opening briefs, excerpts of record, and designation of the clerk's record on behalf of aplts Kenneth Moses Moses Loud Hawk, Russ Redner, and Dennis James Banks are due October 3, 1980. 3) Designations of the

record on behalf of the government in all cases are due Oct. 10, 1980. 4) The government shall file a brief containing its response to the opening brief filed by aplts Loud Hawk, Redner and Banks no later than Oct. 17, 1980. this brief shall also contain the government's opening arguments as to defendant-aple Kamook Banks. 5) The reply briefs, if any, on behalf of aplts Loud Hawk, Redner and Banks are due Oct. 24, 1980. 6) Aple Kamook Banks shall file her response brief no later than Oct. 28, 1980. The above schedule does not contemplate any extension of time and absent extraordinary circumstances, no motions for extension of time will be considered. -pb-

Sept 25 Filed, in 80-1574, aplts' motion to transfer pleadings in United States v. Loud Hawk to this case as exhibits. (9/2⅜0) (Paenl) -pb- (for all aplts)

Sept 25 Filed, in 80-1574, aplts' motion for extension of time for filing brief. (9/23/80) (panel) -pb- (for all aplts)

Oct 1 Filed on 80-1574, CERTIFICATE OF RECORD (9/25). -ss-

FOR ALL FURTHER PROCEEDINGS, SEE 80-1574

1981

Jan 7 Argued & submitted before: Kennedy, Ferguson, Reinhardt, CJJ. -lb-

Jan 28 Filed in 80-1574 Aple's Additional Citation. (1/26/81) PANEL. -ff-

Jan 29 Filed, in 80-1574, order (Kennedy, Ferguson & Reinhardt) Aplts' motion of 9/25/80 to transfer all pleadings in *U.S. v. Loud Hawk*, Nos. 76-1906 & 76-2127, to the record on this appeal is hereby GRANTED.

Feb 4 Transferred record in five vols pldgs from appeal 76-1906/76-2127 pursuant to order of 1/29/ -pv-

Jan 29 Rec'd voucher #433289 from counsel. -jr-

Feb 6	Voucher sent to panel judge for approval. -jr-
Feb 11	Rec'd voucher from Kennedy approving amount claimed ($360.00) -jr-
Feb 13	Voucher sent to Administrative office. -jr-
June 19	Filed in 80-1574 Aplt's additional citation. (6/16/81). PANEL. -ff-
1982	
Mar 18	Rec'd in 80-1574, Aple's Additional citations. PANEL (Counsel Notified to send proof of Service) -js-
Mar 22	Rec'd from Aple Proof of Service. -js-
July 29	Ordered opinion (Reinhardt) filed and judgment to be filed and entered. -js-
July 29	Filed opinion—Reversed in part as to Ka-Mook Banks; appeals of Dennis Banks, Redner, and Loud Hawk are dismissed for lack of jurisdiction. -js-
July 29	Filed and entered judgment. -js-
Aug. 12	Filed in 80-1574 orig. & 33 aplts' joint petition for rehearing and suggestion for rehearing en banc. (10p.) (8/11/82) panel & all active judges. -ru-
Oct 5	Filed in 80-1574 Order (Kennedy, Ferguson & Reinhardt) The panel as constituted above has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc. The petition for rehearing is denied and the suggestion for rehearing en banc is rejected. -js-
Oct 12	Filed in 80-1574, Aplts' Motion to Stay Issuance of Mandate Pending Application for Writ of Certiorari. (10/8/82) REINHARDT -js-
Oct 18	Recv'd In 80-1574 Counsel's Letter Dated 10/15/82 Requesting 60 days in support of 10/12/82 Mtn. to Stay the Mandate. (10/15/82) REINHARDT. -ru-
Dec 7	Filed in 80-1574, Order (SEN DEP CLK) Upon due consideration of aplt's motion for stay of the mandate of this Court in the above cause

	pending the filing, consideration ad disposition by the Supreme Court of the United States of a petition for writ of certiorari, such petition to be filed in the Clerk's Office of the Supreme Court of the United States on or before Feb. 1, 1983, IT IS ORDERED that the motion for stay of mandate be, and the same is hereby granted. -js-
Dec 13	Recvd SC notice of filing petition for cert on 12/3/82, SC#82-5828. -pn-
1983	
	Filed certified copy of SC order of 1/10/83 denying cert. -dm-
Jan 27	Mandate Issued

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 80-1583
Consolidated with
80-1582, 80-1574, 80-1630

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE,

v.

KENNETH MOSES LOUD HAWK, DEFENDANT-APPELLANT.

RELEVANT DOCKET ENTRIES

1980

Aug 25 ASSIGNED DOCKET NUMBER FOR APLT UNDER CJA. -nw-

Sept 2 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. -nw-

Sept 2 Filed order (Clk for EAW) for Time Schedule: transcript ordered August 25, 1980; transcript due September 19, 1980; aplt's opening brief, excerpt of record & designation of clerk's record due October 10, 1980; aple's designation due October 24, 1980; aple's brief due October 31, 1980; aplt's reply brief due November 7, 1980. -nw-

Sept 8 Rec'd, as of 9/4/80, letter dated 9/2/80 from Hon. James A. Redden (DC) recommending that this appeal be expedited. (CRIMATT) -nw-

Sept 15 Filed, in 80-1574, as of 9/9/80, Order (CFP) Upon its own motion, the Court orders the above-captioned cases consolidated on appeal. The parties will observe the following time schedule: 1) The transcript is due Sept. 19, 1980; 2) Opening briefs, excerpts of record and designation of the clerk's record on behalf

of aplts Kenneth Moses Loud Hawk, Russ James Redner, and Dennis James Banks are due Oct. 3, 1980; 3) Designations of the record on behalf of the government in all cases are due Oct. 10, 1980; 4) The government shall file a brief containing its response to the opening brief filed by aplts Loud Hawk, Redner and Banks no later than Oct. 17, 1980. This brief shall also contain the government's opening arguments as to defendant-aple Kamook Banks. 5) The reply briefs, if any, on behalf of aplts Loud Hawk, Redner and Banks are due Oct. 24. 1980. 6) Aplt Kamook Banks shall file her response brief no later than Oct. 28, 1980. This case will be calendared before a regular panel of this Court in Nov. 1980. The above schedule does not contemplate any extension of time and absent extraordinary circumstances, no motions for extension of time will be considered. -pb-

Sept 25 Filed, in 80-1574, aplts' motion to transfer pleadings in *United States* v. *Loud Hawk* to this case as exhibits. (9/23/80) (panel) -pb- (for all aplts)

Sept 25 Filed, in 80-1574, aplts' motion for extension of time for filing brief. (9/23/80) (panel) -pb- (for all aplts)

Oct 1 Filed in 80-1574, Certificate of Record (9/26). -ss-

FOR ALL FURTHER PROCEEDINGS, SEE 80-1574

1981

Jan 7 Argued and submitted before: Kennedy, Ferguson, Reinhardt, CJJ. -lb-

Jan 28 Filed in 80-1574 Aple's additional citation. (1/26/81) PANEL.

Jan 29 Filed, in 80-1574, order (Kennedy, Ferguson & Reinhardt) Aplt's motion of 9/25/80 to transfer all pleadings in *U.S.* v. *Loud Hawk*, Nos.

76-1906 & 76-2127, to the record on this appeal is hereby GRANTED.

Feb 4 Transferred record in five vols pldgs from appeal 76-1906/76-2127 pursuant to order of 1/29 -pv-

June 19 Filed in 80-1574 Aplt's Additional Citations. (6/16/81). PANEL. -ff-

1982

Mar 18 Rec'd in 80-1574, Aple's Additions Citations. PANEL (Counsel notified to send proof of Service). -js-

Mar 22 Rec'd from Aple Proof of Service. -js-

July 29 Ordered opinion (Reinhardt) filed and judgment to be filed and entered. -js-

July 29 Filed opinion—Reversed in part as to Ka-Mook Banks; appeal of Dennis Banks, Redner, and Loud Hawk are dismissed for lack of jurisdiction. -js-

July 29 Filed and entered judgment.

Aug 12 Filed in 80-1574 orig. & 33 aplts' petition for rehearing and suggestion for rehearing en banc. (10p) (8/11/82) panel & all active judges. -ru-

Oct 5 Filed in 80-1574, Order (Kennedy, Ferguson & Reinhardt) The panel as constituted above has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc. The petition for rehearing is denied and the suggestion for rehearing en banc is rejected. -js-

Oct 5 Filed in 80-1574 as of 8/12/82 Aplt's Mtn. substitute counsel of record for appeal for appearance only, etc. (8/11/82) panel & all active judges. -ru-

Oct 12 Filed in 80-1574, Aplts' motion to stay issuance of mandate pending application for writ of certiorari. (10/8/82) Reinhardt -js-

Oct 12 Filed Order (deputy clerk) Aplt's mtn. for substitution of counsel is granted Kenneth S. Stern will be appointed by separate order. -ru-

Oct 12 Filed CJA 20 voucher #334043 appointing Kenneth S. Stern, Esq. -ru-

Oct 18 Recv'd in 80-1574 Counsel's letter dated 10/15/82 requesting 60 days in support of mtn. to stay mandate. (10/15/82) Reinhardt. -ru-

Dec 7 Filed in 80-1574, Order (SEN DEP CLK) Upon due consideration of aplt's motion for stay of the mandate of this Court in the above cause pending the filing, consideration and disposition by the Supreme Court of the United States of a petition for writ of certiorari, such petition to be filed in the Clerk's Office of the Supreme Court of the United States on or before Feb. 1, 1983, IT IS ORDERED that the motion for stay of mandate be, and the same is hereby granted. -js-

Dec 13 Recvd SC notice of filing petition for cert on 12/3/82, sc#82-5828. -pn-

1983

Jan 27 Filed certified copy of SC order of 1/10/83 denying cert. -dm-

Jan 27 Mandate issued

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 80-1630
Consolidated with
80-1574, 80-1582, 80-1583

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

DARLENE PEARL NICHOLS,
TRUE NAME KAMOOK BANKS, DEFENDANT-APPELLEE.

RELEVANT DOCKET ENTRIES

1980

Sept 4	ASSIGNED NUMBER. -pb-
Sept 19	DOCKETED CAUSE & ENTERED APPEARANCES OF COUNSEL. -pb-
Sept 19	Filed, as of 9/9/80, in 80-1574, Order (CFP) Upon its own motion, the Court orders the above-captioned cases consolidated on appeal. The parties will observe the following time schedule: 1) The transcript is due Sept. 19, 1980. 2) Opening briefs, excerpts of record, and designation of the clerk's record on behalf of aplts Kenneth Moses Loud Hawk, Russ James Redner, and Dennis James Banks are due Oct. 3, 1980. 3) Designations of the record on behalf of the government in all cases are due Oct. 10, 1980. 4) The government shall file a brief containing its response to the opening brief filed by aplts Loud Hawk, Redner, and Banks no later than Oct. 17, 1980. This brief shall also contain the government's opening arguments as to defendant-aple Kamook Banks. 5) The reply briefs, if any, on behalf of

	aplts Loud Hawk, Redner, and Banks are due Oct. 24, 1980. 6) Aple Kamook Banks shall file her response brief no later than Oct. 28, 1980. This case will be calendared before a regular panel of this Court in Nov., 1980. The above schedule does not contemplate any extension of time and, absent extraordinary circumstances, no motions for extension of time will be considered. -pb-
Oct 1	Filed in 80-1574, CERTIFICATE OF RECORD (9/26). -ss-
Oct 8	Sent CJA-20 voucher (#548680) to counsel for aple. -pb-

FOR FURTHER PROCEEDINGS SEE 80-1574

1981

Jan 7	Argued & submmitted before: Kennedy, Ferguson, Reinhardt, CJJ.
Jan 16	Rec'd voucher #548680 from counsel. -jr-
Jan 20	Returned voucher to counsel for corrections. -jr-
Jan 28	Filed in 80-1574, aple's additional citation. (1/26/81) PANEL -ff-
Jan 28	Rec'd voucher from counsel with corrections. -jr-
Jan 30	Voucher sent to panel judge for approval. -jr-
Feb. 10	Rec'd voucher from Kennedy approving amount claimed. -jr-
Feb. 13	Voucher sent to Browning for approval of excess amount claimed. -jr-
Feb 18	Rec'd voucher from Browning approving excess amount claimed. -jr-
Feb 27	Voucher sent to Administrative Office. -jr-
June 19	Filed in 80-1574, Aplt's Additional Citations. (6/16/81). PANEL. -ff-

1982

Mar 18	Rec'd 80-1574 aple's additional citations. PANEL (Counsel notified to send proof of service). -js-

Mar 22	Rec'd from aple Proof of Service. -js-
July 29	Ordered opinion (Reinhardt) filed and judgment to be filed and entered. -js-
July 29	Filed opinion—Reversed in part as to Ka-Mook Banks; appeals of Dennis Banks, Redner, and Loud Hawk are dismissed for lack of jurisdiction. -js-
July 29	Filed and entered judgment JS/34 -js-
Aug 12	Filed Orig & 33 Defendant/aple's petition for rehearing and suggestion for rehearing en banc. (8/11/82) (13 pgs) Panel & all Active Judges. -js-
Oct 5	Filed Order (Kennedy, Ferguson & Reinhardt) The panel as constituted above has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc. The petition for rehearing is denied and the suggestion for rehearing en banc is rejected. -js-
Oct 12	Filed in 80-1574, Aplts' motion to stay issuance of mandate pending application for Writ of Certiorari. (10/8/82) REINHARDT -js-
Oct 18	Recv'd in 80-1574 Counsel's letter dated 10/15/82 requesting 60 days in support of 10/12/82 mtn. to day mandate. (10/15/82) REINHARDT. -ru-
Dec 7	Filed in 80-1574, Order (SEN DEP CLK) Upon due consideration of aplt's m otion for stay of the mandate of this Court in the above cause pending the filing consideration and disposition by the Supreme Court of the United States of a petition for writ of certiorari, such petition to be filed in the clerk's office of the Supreme Court of the United States on or before Feb. 1, 1983, IT IS ORDERED that the motion for stay of mandate be and the same is hereby granted. -js-
Dec 13	Recvd SC notice of filing petition for cert on 12/3/82, SC#82-5827. -pn-

1983	
Jan 27	Filed certified copy of SC order of 1/10/83 denying cert. -dm-
Jan 27	Mandate issued.
Apr 1	Rec'd supp'l voucher from counsel via FPD for approval of claim on ptn/rehearing & cert. -rk-
Apr 11	Voucher forwarded to panel judge. -rk-
May 11	Voucher rec'd from panel judge. -rk-
May 13	Voucher forwarded to chief judge for approval of excess amount claimed. -rk-
May 19	Voucher rec'd from chief judge. -rk-
May 20	Voucher forwarded to AO w/supporting papers. -rk-

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 83-3067

EXPEDITED APPEAL

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS, a/k/a KAMOOK BANKS, DEFENDANTS-APPELLEES,

RELEVANT DOCKET ENTRIES

1983	
Jun 21	ASSIGNED DOCKET NUMBER.
Jun 21	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. -ru-
Jun 21	Filed in D.C. 6/17/83, Time Schedule: Transcript to be ordered by Jul. 1, 1983; Transcript due Jul. 22, 1983; Aplt's opening brief, excerpts of record & designation of clerk's record due Aug. 12, 1983; Aple's designation due Aug. 25, 1983; Aple's brief due Sept. 2, 1983; Aplt's reply brief due Sept. 16, 1983. -ru-
July 5	Filed aple's motion for recusal of Ninth Circuit and issuance of certificate of necessity, (6/30/83), (CRIMATT). -jw-
July 15	Rec'd as of July 11, ltr dtd July 7, from V. Annette Murphy, of counsel for aple Banks, re: informing court that counsel for Banks is out of town on East Coast until 8/1/83, and letting court know that counsel plans to file opposition to government's designation of certain transcripts upon his return. (CRIMATT) -db-

July 15	Rec'd as of July 13, ltr dtd July 11, from Michael E. Rose, Esq., counsel for aple, re: designation of certain transcripts. (CRIMATT) -db-
July 15	Filed aplt's mtn to supplement aplt's transcript designation or in the alternative to remand the mtn for resolution by the trial court. (CRIMATT) 7/13 -db-
July 21	Filed Aplt/USA Mtn. for an order continuing the Government's witness subpoenas in this case, or in the alternative a remand of this Mtn. for resolution by the trial court. (7/18/83) CRIMATT. -ru-
July 22	Filed aple's (LOUD HAWK) opposition to aplt's mtn to supplement the govt's transcript designation or in the alternative to remand the mtn for resolution by the trial court. (CRIMATT) 7/20 -db-
July 26	Filed Order (CHOY & ALARCON) Aples' motion for recusal of the Ninth Circuit and for issuance of a certificate of necessity is denied. The appeal does not reasonably call into question this court's impartiality. -dm-
Aug 1	Filed aple's (LOUD HAWK) opposition to aplt's mtn for an order continuing the govt's witness subpoenas int his case, or in the alternative a remand of this mtn for resolution by trial court. (CRIMATT) 7/28 -db-
Aug 11	Filed aplt's motion for extension of time to file opening brief, (8/9/83), (CRIMATT).
Aug 11	Filed aple's opposition to the governments motion for an order continuing witness subpoenas; opposition to the governments motion to supplement the government's transcript designation, (8/9/83), (CRIMATT). -jw-
Aug 11	Filed aple's motion to strike parts of government's transcript designation (8/9/83), (CRIMATT). -jw-
Aug 11	Filed aple's motion to stay further proceedings in this appeal pending resolution of writ of

	mandamus filed in U.S. Supreme Court, (8/9/83), (CRIMATT). -jw-
Aug 17	Rec'd orig & 15 copies of aplt's opening brief and 5 excerpts of record, (50 pgs), (8/16), motion pending. -dm-
Aug 19	Filed Order (BOOCHEVER & REINHARDT) Aplt's motion to supplement its transcript designation is remanded to the district court for its consideration. Fed. R. App. P. 10(e); *Munich* v. *United Siates*, 330 F.2d 775, 776 (9th Cir. 1964). We intimate no view as to the merits. Aplt's motion to continue its witness subpoenas pending appeal is denied. -dm-
Aug 19	Filed Aple's mtn. to dismiss (8/18/83) CRIMATT. -ru-
Aug 19	Rec'd ltr dtd Aug. 17, from counsel for aples, re: requesting mtn to stay filed on 8/11/83 as an emergency mtn. (CRIMATT) -db-
Aug 26	Filed aple's mtn for ext of time to file brief. (CRIMATT) 8/24 -db-
Sept 2	Rec'd orig & 15 copies aple's brief (48 pgs) & supplemental excerpt of record. (Aplt's Opening Brief not filed yet, mtns pending) 9/1 -db-
Sept 2	Rec'd ltr dtd 9/1/83 from counsel for aple Banks, re: brief is being filed "under protect". (CRIMATT, with copy of brief.) -db-
Sept 7	Filed Order (KENNEDY & POOLE) Aples' motion to dismiss is frivolous and is denied. Aplt's motion of August 11, 1983 for an extension of time in which to file the opening brief is granted. The brief already rec'd shall be filed. Aples' motion to stay further proceedings in this appeal pending resolution of the writ of mandamus filed in the United States Supreme Court is denied. The parties will meet the following time schedule: aples' designation of the record is due Sept. 6, 1983; aples' brief is due Sept. 13, 1983; the reply brief, if any, is due Sept. 27, 1983. -dm-

Sept 7	Filed orig. & 15 aplt/USA Opening Brief & five excerpts of record. (50p.) (8/16/83). -ru-
Sept 7	Filed orig. & 15 aples' brief & five supplemental excerpts of record. (49p) (9/1/83). -ru-
Sept 26	Filed cert record on appeal in 41 volumes. Pleadings Vols. 1-10, cert copy, and R/T's Vols. 11-41, orig. only. -jw-
Sept 29	Filed orig and 15 copies of aplt's reply brief, (9 pages), (9/27/83). -jw-
Sept 30	Filed cert supplemental record on appeal in 1 volume. Pleadings Vol. 10a. Record now in 42 volumes. -jw-
Sept 30	Rec'd complimentary copy of aple's response to "Memorandum for the U.S. in Opposition," (9/28), filed in Supreme Court. -dm-
Oct 14	Filed cert of record (9/21/83) -db-
1984	
Jan 4	Argued & submitted to: Wallace, Canby, CJJ, Craig, DJ. -ss-
Jan 16	Rec'd voucher #783867 from counsel for approval of claim. -jr-
Jan 27	Voucher forwarded to panel judge for approval. -jr-
Feb 6	Rec'd voucher from panel judge. -jr-
Feb 9	Voucher forwarded to chief judge for approval of excess amount claimed.
Feb 14	Rec'd voucher from chief judge. -jr-
March 1	Voucher forwarded to Administrative Office with supporting papers. -jr-
May 3	Rec'd from counsel of Aple. letter dated 4/30/84. RE: Additional citation. (PANEL) -ru-
Aug 30	Ordered opinion filed (Canby), (Wallace dissenting) and judg to be entd. -dm-
Aug 30	Filed opinion—affirmed -dm-
Aug 30	Filed and entered judgment. -dm-
Aug 30	Rec'd, as of 2/6, voucher #433259 from counsel for approval of claim. -jr-
Aug 30	As of 3/14, voucher forwarded to panel judge for approval. -jr-

Aug 30	Rec'd, as of 5/22, phone call from FPD re: status of voucher. Voucher still pending.
Aug 30	As of 6/6, rec'd call from FPD re: status of voucher: Call referred to (Chief Deputy Clerk, CC). -jr-
Aug 30	Rec'd, as of 7/9, letter from counsel re: status of voucher. -jr-
Aug 30	As of 7/11, letter referred to panel judge. -jr-
Aug 31	Rec'd voucher from panel judge. -jr-
Aug 31	Voucher forwarded to chief judge for approval of excess amount claimed. -jr-
Sept 10	Rec'd voucher from chief judge. -jr-
Sept 17	Voucher forwarded to Administrative Office with supporting documents. -jr-
Sept 18	Filed as of 9/13 orig. & 33 aplt's petition for rehearing with suggestion rehearing en banc. (14p.) (9/12) (Panel & all Active Judges.) -ru-
1985	
Jan 8	Filed order (Wallace, Canby, Craig) A majority of the panel as constituted above has voted to deny the petition for rehearing and suggestion for rehearing en banc. The full court has been advised of the suggestion for rehearing en banc and no judge of the court has requested a vote on it. The petition for rehearing is hereby denied and the suggestion for rehearing en banc is rejected. -sm-
Jan 16	Mandate issued.
Jan 28	Rec'd aplt's mtn to stay mandate (contacted counsel, re: need mtn to recall mandate) 1/24 -db-
Jan 29	Filed order (Wallace, Canby & Craig) The following modification is made to the opinion. In the left column at slip op. 3835, lines 6-8, there is a citation to *United States* v. *Marion*. The citation is amended to read: *United States* v. MacDonald, 456 U.S. 1,6 (1982) (citing *United States* v. *Marion*, 404 U.S. 307, 313 (1971). -db-

Jan 31	Filed aplts' mtn to recall mandate (Canby) 1/29 -db-
Feb 4	Filed aples opposition to aplt's mtn to recall & stay mandate (Canby) 1/31 -db-
Feb 8	Rec'd notice of change of address of counsel for aplee (Redner). -dmf-
Feb 28	Filed order (Wallace & Canby, CJ, Craig, DJ) The motion of the United States to recall and stay the mandate is DENIED.
Mar 13	Rec'd as of 3/8, notice from U.S. Supreme Court, re: filing of petition for writ of cert., filed in SC February 26, 1985, SC #84-1361. -jw-
Apr 19	Rec'd certified copy of SC order granting petition for writ of cert, order file dated 04/15/85. -emk-

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. 75-296-1

UNITED STATES OF AMERICA, PLAINTIFF

v.

KENNETH MOSES LOUD HAWK, DEFENDANT

RELEVANT DOCKET ENTRIES

11-17-75 Filed complaint and issued warrant.

11-18-75 First appearance:
Deft. admitted identity and was advised of rights.
Order setting for preliminary hearing Nov. 26, 1975, 9:30 a.m.

11-19-75 Filed Warrant with return showing arrest of deft. by FBI on 11-14-75.

11-25-75 Indictment returned—CR 75-296.

11-26-75 CLOSED—to Clerk.

1975

Nov. 25 1) Filed Indictment

Nov 25 2) Issued warrant for arrest of deft ($100,000 cash or corp. surety requested)

Nov [20] 3) Filed Deft's Motion for Pretrial Release

Nov 26 4) Record of arraignment: Ms. Lea and Mr. Schiffman will serve as counsel without fee. Defts waived reading of indictment. (Court summarized charges.) Defts were advised of rights. Order setting for plea 12/8/75 and bail motion

Nov 26 5) Filed return of service of bench warrant exec 11/26/75

Dec 8 6) Record of Entry of NOT GUILTY plea of Loud Hawk Russ Redner. Please of NOT GUILTY entered to each of cts 1 thru 9 by

each deft. Order setting for trial week of 2/9/76. 2 weeks jury. Order that pretrial motions be filed prior to Christmas Order allowing motion to appt. of investigators defense counsel to prepare form. Record of hearing on bail motion. Defts. witness Gregory Lynch Order reinstating bail to $50,000.00 Previously $100,000.00

Dec 8 7) Filed motion for contact visits

Dec 9 8) Filed findings and order that the motion for release is DENIED and bail is reduced to $50,000.00 m 12/17/75., J s 12/9/75

Dec 9 9) Filed order that defts. motion for an order requiring the U.S. Marshal has agents and employees to permit contact visits with their friends and relatives if DENIED m 12/17/75., ntfd J s.2/9/75

Dec 15 10) Filed defts. motion to review and amend the conditions of release for formal evidentiary bail hearing.

Dec 22 Filed Superseding Indictment

Dec 22 11) Issued warrant for arrest of deft. ($50,000.00 cash of corp. surety)

Dec 22 12) Record of order setting arr. and plea for 12/29/75 RCB

Dec 23 13) Filed govt. motion to compel handwriting exemplars

Dec 24 14) Filed defts. motion to suppress

Dec 24 15) Filed defts. first motion for discovery and inspection

Dec 24 16) Filed defts. motion for a bill of particulars

Dec 24 17) Filed defts. motion to dismiss or to suppress

Dec 24 18) Filed defts motion to disclose informants

Dec 24 19) Filed defts motion for inspection reproduction and copying or records and papers used in connection with jury selection process

Dec 24 20) Filed defts. motion to review and amend order regarding "Contact visits and motion for

contact meetings with potential defense witnesses

Dec 24 — 21) Filed defts. motion for search and disclosure of electronics or other surveillance

Dec 29 — 22) Record of arr. and pleas of NOT GUILTY entered as to cts. 1-4 of the indictment by defts. LOUD HAWK AND REDNER Ordered trial set for wk of Feb. 9, 1976. Ordered defts. file any additional motion not later than Jan 12, 1976. Gov. allowed 2 wks to answer and defts may reply within 1 week. Hearing date for motions set 1/23/76 at 9:30 AM. Record of Hearing defts motion for reduction of bail; Evidence adduced. Bail plan to be submitted to the court. Motion taken under advisement. RCB

Dec 29 — 23) Filed return of warrant for arrest of defts. LOUD HAWK dated 12/22/75 exec. 12/29/75

Dec 31 — 24) Filed order requiring the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof in the amount of $50,000.00, see order for more details m 12/31/75 ntfd RCB s 12/31/75

1976

Jan 8 — 25) Record of hearing on govt. motion for handwriting exemplars. Order granting with protective order that exemplars only by used in this case in Oregon. To be taken 1/9/76 in Marshals office. Record of hearing on motion for contact visits today. Order allowing. J

Jan 8 — 26) Filed order that defts. Loud Hawk and Redner are to furnish to a rep. of the FBI handprinting and handwriting samples which are to be used solely as a standard of comparison in order to determine whether or not they or both of them are the author of certain writings etc. m 1/9/76 J s 1/8/76

Jan 12 — 27) Filed defts. motion to compel the transcription of all future grand jury proceedings concerning these defts.

Jan 12 — 28) Filed defts motion for disclosure and inspection of grand jury minutes and testimony.

Jan 12 — 29) Filed defts. motion for disclosure of names of prospective jurors

Jan 12 — 30) Filed defts. motion for first amended motion for bill of particulars

Jan 12 — 31) Filed defts. motion to strike

Jan 12 — 32) Filed defts. motion to sever

Jan 12 — 33) Filed gov. response to defts LOUD HAWK AND REDNER motions; for inspection, reproduction and copying of records and papers used in connection with jury selection process. For search and disclosure of electronics and other surveillance; to disclose informants to dismiss or suppress; for discovery and inspection; to suppress; for a bill of particulars

Jan 14 — Filed gov. motion to move the court for an order to show cause directing Kenneth Loud Hawk and Russ Redner to show cause why they should not be held incriminal contempt for refusal to furnish handwriting exemplars as directed by the court.

Jan 16 — Filed return of summons and instructions exec. 1/15/76

Jan 20 — 34) Filed defts. reply to motion to disclose informants

Jan 20 — 35) Filed reply to gov, response to motion to suppress or dismiss

Jan 21 — 36) Record of pre hearing conference. Court may examine the Oregon State Police reports in camera if the goc. does not disclose these materials. Trial to be reset to March 8, 1976 on motion of the defts. Gov. requests for contempt hearing will be heard after the trial if this remains to be an issue. Counsel stipulate that all motions will be filed not later than Jan

28, 1976. exempt jurisdictional motions which may be filed later BE

Jan 23 37) Record of hearing defts. motions to dismiss cts 1, 2 and 3 of the ind. in the alternative to suppress. Motion to disclose informants and motion for search and disclosure of electronic or other surveillance and motion for disclosure and inspection of grand jury minutes and testimony and motion to strike language in cts. 1, 2 and 3. of the ind. Ordered motions taken U/A/Record of hearing defts. motions first motion for disclosure and inspection and motion for inspection reproduction and copying of records and papers used in connection with the jury selection process. Counsel inform court these matters have been or will be satisfied. Record of hearing defts. motion to sever the trial from trial of Banks and Peitier, Ordered motion *granted*. Record of hearing defts. motion to require gov. to disclose names of witnesses before grant jury *granted*. Record of hearing defts. motion to compel transcription of all future grand jury proceedings concerned these defts. *granted*. Record of hearings defts. motion for continuance of trial. Ordered motion *GRANTED*. and case continued from 2/9/76 to the firm date of 3/8/76 Ordered all motions to be filed not later than 1/28/76 except jurisdictional motions. Record of hearing defts. motion for disclosure of names and addresses of prospective jury panel *Under advisement*, but if this motion granted the names and addresses will not be disclosed prior to one wk before trial. Gov. motion for OSC re contempt will be heard after the trial. Counsel inform court that deft.s motion for bill to particulars in MOOT. Counsel inform court that 1st amended motion for bill of particular need not be heard at this time BE

Jan 23 38) Filed order that defts. motion to disclose informants be *DENIED*. because the defts. have not shown that the disclosure of the identity of the inf. would serve a necessary purpose. It is ordered that defts. motion for inspection reproduction and copying of records and papers used in connection with the jury selection process be *GRANTED*. It is ordered that defts. motion to dismiss or to suppress be *DENIED* It is ordered that the defts. motion to sever be *GRANTED*. It is ordered that if there is any further grand jury proceeding pertaining to this case the testimony should be reported, transcribed and given to defense counsel. It is ordered that the defts motion to strike is *DENIED*. 1/22/76 NTTFD be 1/22/76

Jan 23 39) Filed motion for continuance

Jan 28 40) Filed motion for rehearing or reconsideration

Jan 28 41) Filed defts. motion for enlargement of time to file pretrial motions

Feb 2 42) Record of order setting hearing for 9:30 2/6/76 on defts motion for pretrial release and motions to vacate the order severing trial of these defts from of deft Dennis Banks. Record of order granting defts motion to extend time file additional motions to 2/11/76. Record of order that all defts within the district be present in court when any other deft. in this case is present

Feb 5 43) Record of order granting Mr. Jones Motion to admit Mass. Attorney Lewis for the purpose of this action on behalf of deft. Loud Hawk. Record of hearing KaMook Banks motion for pretrial release. Ordered deft. be released on the of release plan approved by this court and deft. agree that the probation of may make any additional rules for implementation of this plan so long as the are not incon-

sistent with the plan. Record of hearing deft. Loud Hawk and Record of motion to reconsider the courts rul[illegible]gs under advisement to part. Court to set hearing prior to trial re destruction of evidence. Defts directed to submit pla___ regarding informants in defense camp. Record of order that deft. KaMook has until 2/20/76 to file pretrial motions. Record of order that defts Loud Hawk and Redner submit another prerelease plan BE

Feb 9 44) Filed order that (1) Counsel be provided at gov. expense copies of documents and materials from the official court records in Armsbury case (2) Counsel be provided copies of all samples reports and other documents which the clerk has submitted to the administrative office of the US courts regarding district of Oregon jury selection plan since 1969. (3) Counsel will be permitted to inspect questionaires forms etc. (4) Counsel will be permitted to inspect and collect data from the slips drawn in open court since 1969 which have contained the names of jurors summoned from grand or petit jury. (5) Counsel be permitted to match the names of jurors to which reference is made in par. 3 for purposes of collecting data. (6) Use of inf. is limited neither counsel for deft. or for the gov. may use the inf. obtained in this order to harass, embarrass, or invasion of privacy of any person. The info should not be used by either party to acquire any further ind. concerning the lives etc. of the person. No public disclosure of the jurors names will be made. BE

Feb 9 45) Filed order that Kenneth Loud Hawk and Russ Redner and each of them are released to the custody of Alan G. Deal, Minister First Unitaian Church Portland, Oregon and such other individuals as he may direct according to said Release agreement. It is further ordered that defts. shall report daily at or before the hour of 1:00 PM to said custodial person and that any failure to so report shall be reported to this court. It is further ordered that defts. shall adhere to the following cond. (1) shall personally appear at all hearings before this court. (2) shall reside at 3534 S.W. Hood St. Portland, Oregon and shall not leave the met. area (3) Defts. shall obey all laws m 2/9/76 BE s 2/9/76 notified

Feb 9 46) Filed defts motion and mem, re; third party release

Feb 9 47) Filed order to show cause that deft. appear 2/10/76 at 2:30 PM m 2/9/76, BE s 2/9/76

Feb 10 48) Filed order that the order to show cause filed 2/9/76 is taken off the courts calendar until further order of the court m 2/9/76, BE s 2/10/76

Feb 11 49) Filed return order to show cause exec. 2/9/76

Feb 12 50) Filed order specifying methods and conditions of release on deft. Russ Redner

Feb 11 51) Filed order specifying methods and conditions of release on deft. Kenneth Moses Loud Hawk

Feb 11 52) Filed deft. motion for additional peremptories

Feb 12 53) Filed order to show cause dated 2/18/76, before Judge Belloni at 9:30 AM m 2/12/76 BE s 2/12/76

Feb 12 54) Filed deft. motion for change in voir dire procedure

Feb 12 55) Filed motion for native American Judge

Feb 13 56) Filed order that the Clerk of this court file a copy of the Affid. of furnished to officials of the Canadian Gov. at their request for use in extradiction proceedings from Canada for deft. Peltier SK m 2/12/76 s 2/13/76

Feb 13 57) Filed affidavit of Eldon Olson

Feb 13 58) Filed affidavit of William P. Zeller

Feb 17 59) Record of order striking hearing on order to show cause set for 2/18/76 BE

Feb 19 60) Filed deft. motion to produce defense camp informants

Feb 20 61) Filed deft. motion to produce informants and for a pretrial hearing.

Feb 18 62) Record of conderence; Ordered deft. oral motion for cont. of trial grar and case continued from March 8th to May 12, 1976 Deft. directed to submit formal motion for continuance. At the request of the parties, ordered hearing evidentiary motions set for March 22, 1976 at 9:30 AM

Feb 20 63) Filed gov. designation of high risk

Feb 23 64) Filed deft. motion for continuance

Feb 23 65) Filed deft. REDNDER motion for permission to travel to Wash.

Feb 25 66) Filed deft. LOUD HAWK motion for permission to travel outside the district Oregon

Feb 25 67) Record of hearing deft. KaMook Banks mt. for modification of pretrial release plan for travel to Calif. from 2/25/76 to 3/2/76. Ordered motion granted

Feb 26 68) Filed motion to amend pretrial release plan m 2/25/76 BE s 2/25/76

Feb 26 69) Record of hearing deft. Loud Hawk and Redner motion to modify conditions of release to allow them to travel to the state of Wash. on 3/1/76. Ordered granted. BE

Feb 26 70) Filed order allowing travel for deft. Redner m 2/25/76 BE s 2/26/76

Feb 26 71) Filed order allowing travel for deft. Loud Hawk 2/25/76 BE s 2/26/76

March 2 72) Filed motion for permission to travel for Redner and Loud Hawk

March 3 73) Record of hearing on motion of Loud Hawk for permission to travel. Order to be submitted. J

March 3 74) Filed travel order for Kenneth Loud Hawk. m 3/5/76 J s 3/3/76

March 11 75) Filed Gov. response to defts. motion for additional preemptory challenge

March 11 76) Filed Gov. respons to defts. motion for change in voir dire

March 15 77) Filed Gov. answer to defts. motion for search and disclosure of electro or other surveillance

March 17 78) Filed Govt's Response to defts Redner, Loud Hawk and KaMook Banks' Motion to Produce informants and for a pretrial hearing

March 17 79) Record of prehearing conference. Ordered portion of defts. motion to suppress evidence set for hearing at 9 AM March 19, 1976 BE

March 18 80) Filed gov. mem, destruction of dynamite

March 19 81) Record of hearing defts. motion to suppress dynamite, Evidence adduced. ___ ed hearing continued to March 22, 1976 at 9:30 AM BE

March 22 82) Filed testimony of James M. Key

March 17 83) Filed motion for trial in Pendleton, Oregon

March 22 84) Filed list of exhibits and witnesses

March 22 85) Record of hearing defts. KaMook Banks motion to join in the other defts. Ordered motion granted. Record of further hearing defts. motion to suppress evidence. Evidence adduced. Ordered any briefs be submitted not later than 1976. Under ad. unless either side requests oral arguments. Said request s___ be made not later than March 25, 1976. Record of hearing defts. motion for covery. Evidence adduced. Record of hearing defts. general motion to suppr___ Defts. directed to submit an amended motion within a reasonable period of Record of hearing defts. motion to disclose informants A & B. Court to examine FBI Agent Little in camera. Under advisement. Record of hearing on gov. motion for trial in Pendleton, Oregon. Ordered motion

DENIED. Record of order setting arr. and plea for deft. Dennis Banks April 13, 1976 at 9AM Record of hearing defts. motion for native american judge Under Advisement

March 24 86) Filed response to gov. mem re destruction of dynamite

March 24 87) Filed transcript of motions dated 3/22/76 to Lezak 3-29-76

March 19 88) Filed govt's response to defts' motion to produce defense camp informants

March 26 89) Filed motion for permission to travel

March 26 90) Filed order that Deft. Loud Hawk, Redner and KaMook Banks be allowed to travel to and from Calif. April 1, 1976 to April 12, 1976 on the condition that they maintain daily contact. m 3/29/76 BE s 3/26/76

March 31 91) Filed & entered order suppressing evidence. Defts. motion to suppress all evidence is GRANTED m 4/1/76 BE s 3/30/76 ntfd

March 31 92) Filed order that deft. KaMook motion to join in order defts motion is GRANTED. Defts. motion for native American Judge is DENIED. Deft. motion to produce informants A & B and for a pretrial hearing is U/A. Defts motion to disclose def. camp informants is DENIED. Defts. general motion to suppress is DENIED. Defts. first motion for discovery and ins. Defense can interview officers without hinderance from gov. counsel and gov. counsel shall notify those officer whom he asked not to talk to. DEFTS. motion for disclosure of names of prospective jurors GRANTED. Defts. motion for search and disclosure of electronic or other surv. None found. Defts. motion for change in Voir Dire U/A. Defts. motion for additional preemptory challenges. U/A Defts. motion to dismiss or to suppress. Order already submitted. Gov. motion for trial in Pendleton, Oregon DENIED. m 4/1/76 BE s 3/

March 26 93) Filed supplemental affidavits in support of defts. motion to disclose electronic surc.

March 26 94) Filed supplemental affidavits in support of defts motion to produce defense camp informants

March 29 95) Filed motion to amend travel order m 4/6/76

April 5 96) Filed amended order for permission to travel m 4/6/76 BE s 4/2/76

(Nov. 26, 1975) [1976] 97) Record of finding that defts are indigent and can proceed in forma pauperis J

April 13 113) Filed defts. motion to join in motions of Dennis Banks

April 13 114) Filed defts motion for order to aid in challenge of Grand and Jury petit jury composition

April 19 115) Filed notice of Appeal by USA from the Order dated 3/30/76, filed 3/31/76 suppressing all evidence relating to dynamite

April 20 Served a copy of the Notice of Appeal on all attorneys for appellee and upon the court reporter

April 20 Notified counsel of Rule 20 (Expedited Appeal)

April 20 Mailed a certified copy of the Notice of Appeal, docket entries, and CJA Form 20 (VO #278292) to Court of Appeals

April 13116) Record of order appt. counsel for defts. as follows. for defts. Loud Hawk Ron Schiffman., for defts. Redner, Sheila Lea, for defts. Dennis Banks, Dennis Stenzei BE

April 15 117) Filed letter that the pretrial hearing set for April 29, 1976 is continued to May 3, 1976 at 9:30 AM. BE

April 19 118) Filed travel order for defts Kenneth Loud Hawk. Ordered that deft may travel to and from his family home in South Dakota between the dates of April 21, 1976 and May 5, 1976. Shall maintain contact w/attorney, and waived his personal app. at any pretrial hearings m 4/20/76 BE s 4/19/76 ntfd

April 19 119) Filed motion for permission to travel

April 20 120) Filed gov. motion for continuance DENIED 4/20/76 BE s 4/20/76

April 19 121) Filed gov. mem to motion for continuance

April 15 122) Record of in camera exam, of FBI agent LITTLE. Court examines agent little under oath. BE

April 20 123) Filed order allowing travel to Defts. Loud Hawk and KaMook Banks to travel out of the district of Oregon to the Western District of Washington on April 21, 1976 and to return April 23, 1976 in order for them to attend a speaking engagement at the Un. of Wash. in Seattle, Wash. m 4/20/76 BE s 4/20/76

April 21 124) Filed gov. Answers to deft. motion

April 21 125) Filed gov. response to defts. Banks motion for discovery etc.

April 22 126) Record of filing and sealing in chambers incamera interview of Robert Little. Box of envelope placed in file. SEALED EMV. PLACED IN VAULT. Valuables in exhibit drawer Marshs box

April 22 127) Filed defts. motion to dismiss or in the alternative for an in camera pretrial hearing

April 23 128) Filed motion to suppress personal papers and documents of all defts. seized prus. to search warrant

April 23 130) Filed supple. exhibit to defts. motion to dismiss or in the alternative a in camera pretrial hearing

April 23 131) Filed motion to quash or dismiss the ind. because of an illegally composed grand jury or because of the inability of the defts. to receive a trial by a legally composed petit jury

April 23 132) Filed motion to require that the trial of this case be held in a facility suff. large to acc. a reasonable number of members of the general public

April 26 133) Record of conference. Gov. informs court that is will not be ready for wk of 5/12/76 Ordered no further hearings to be held until decision of the of appeals on gov. appeal. Ordered motion of Kamooks Banks for leave to South Dakota from 4/26/76 to 5/2/76 granted BE

April 30 134) Filed gov. answer to defts. motion to have the trial held in a facility an enloarged [*sic*] seating capacity

May 3 135) Filed designation of record by the gov.

May 4 136) Filed gov. renewed motion for continuance or in the alternative for hearing on defts. motions to suppress and dismiss

May 4 137) Filed CJA 21 form appt. James Key

May 4 138) Filed gov. answer to defts. motion to dismiss the ind. for alleged governmental misconnduct

May 11 139) Filed gov. supplemental mem. in support of its renewed motion for a continuance of the May 12, 1976 trial date.

May 11 140) Filed gov. answer to defts. second motion to dismiss for gross gov. misconduct.

May 12 141) Filee gov. answer to defts motion for order to aid in challenge of Grand jury and petit jury composition

May 12 142) Record of time set for trial Case called and gov. informs court it is ready for trial. Defts answer ready. Gov. renews its motions for handwriting and handprinting exemplars from defts. Dennis Banks and all other evid, motion Ordered defts. motion to dismiss the ind. with prejudice pursuant to rule granted. and case dismissed as to the defts. Ordered bonds of these defts exonerated. Gov. moves to continue defts. on PR pending appeal. Ruling made Ordered gov. motion to continue subp. for gov. witnesses taken under adv.

May 14	143) Filed defts. mem. for court re dismissal with prejudice
May 14	144) Filed defts. opposition to gov. motion to extend life of subp.
May 17	145) Filed orig. + two copies of Transcript of motion had on 12/29/75
May 17	146) Filed orig. + two copies of Transcript of motion had on 1/23/76
May 17	147) Filed orig. + two copies of Transcript of motions had on 2/5/76
May 17	148) Filed Transcript of Hearing had on 4/26/76
May 17	149) Filed Transcript of Motion to Dismiss had 5/12/76
May 17	Mailed RECORD ON APPEAL as follows: 1. Three certified copies of Clerk's Record (pleadings)—pgs 1 thru 915 in Four Volumes, VOLS, I, II, III, & IV 2. Orig. + two copies of Transcript of Motion had on Dec. 23, 1975—VOL. V of Record on Appeal Orig. + two copies of Transcript of Motion had on Dec. 29, 1975—VOL. VI of Record On Appeal Orig + two copies of Transcript of Motion had on Jan 23, 1976—VOL. VII of Record On Appeal Orig + two copies of Transcript of Motions had on Feb 5, 1975—VOL. VIII of Record On Appeal Orig ± two copies of Transcript of Motion To Amend Pretrial Release Plan, had on Feb 25, 1976—VOL. IX of Record On Appeal Three copies of Transcript of Testimony of James M. Key, had on Mar 19, 1976—VOL. X of Record On Appeal Orig + two copies of Transcript of Motions had on Mar 22, 1976—VOL XI of Record On Appeal

	Orig ± two copies of Transcript of Hearing had on Apr. 26, 1976—VOL. XII of Record On Appeal Orig + two copies of Transcript of Motion To Dismiss had on May 12, 1976—VOL. XIII of Record On Appeal
May 12	Filed Notice of Appeal by USA from the Order Dismission Indictment
May 18	Served copies of the Notice of Appeal on counsel
May 18	Mailed a certified copy of the Notice of Appeal, docket entered, and CJA Form 20 to Court of Appeals
May 21	150) Filed designation of record by the gov.
May 24	151) Filed CJA 21 form appt. Chelsa Brown
May 19	149a) Filed Govt's Motion for an order continuing all subpoenas issued on behalf of the govt until disposition of the appeal or until further order of the Court
May 28	Mailed Record to Court of Appeals
June 25	Filed transcript of motions and plea of Feb. 2, 1976.
June; 25	Filed arraignment of Dennis Banks of April 13, 1976.
July 8	Filed govt's Answer to Defts' Motion to Suppress Personal Papers and Documents of all defts Seized Pursuant to Search and General Motion to Suppress
July 9	Filed Ord supplementing Record on Appeal m 7/21/76 -ntfd- s BE 7/9/76
July 9	Filed Mot for Supple Record on Appeal
Aug. 3	Filed CJA 21 Form Authorization of Transcript
Aug. 31	Filed CJA 21 authorizing services of Ronald McReary OF URECA, Inc.
Oct. 13	Rec'd CJA 20 Appointing Ronald P. Schiffman
Nov. 23	Filed Original Transcript ofProceedings on motion dated April 26, 1976
1977	
Nov. 7	ORDER from c/a denying defts-appellees' emergency mot for continuance

1978 (BECAUSE OF SUCH CONFUSION IN PREVIOUS NUMBERING AND IN READING THE DOCKET SHEET, EVERYTHING FILED AFTER THE ORDER OF REMAND WILL BE NUMBERED WITH R i.e.)

March 8 R1) ORDER of Remand—rec'd from 9th Circuit Court of Appeals

March 10 R2) Minute Order setting case for call at 9:30 a.m. 3/27/78 for the purpose of setting a hearing date to conduct an evidentiary hearing based on the Court of Appeals' order of remand. BE

March 27 R3) Rec of call: Ord case cont'd to May 9, 1978, for evidentiary hrg based on Court of Appeals' remand ord. 1½ day. Defts' presence required unless waivers filed. (BE)

Apr 21 R8) Rec of ORD: settg deft Redner's Mot for discovery at 9am 5/3/78. (BE)

Apr 26 R9) Deft Kenneth Loud Hawk Mot for issuance of subpoenas at public expense, as follows: 1) Daid Milan (2) Steven Hancock (3) Wm. Fettig (4) Lt. M. Callum (5) Edward Hansen (6) Ken Griffiths (7) Wm. Zeller (8) Dennis Lean (9) John F. McCormick (10) James E. Russell (11) Robt. Little (12) Daniel Jacobs (13) Ron McCreary, (14) Thomas Durham (15) R. Keith Bond (16) Brooks Cline (17) Thomas Durham (18) Geo. Cally (19) John Borman (20) John Doe Dilbeck (21) Robt. Marcom.

Apr 27 R10) ORD allowing deft's mot for issuance of subpoenas at public expense. s/e 4/27/78 J

May 3 R11) Motion by Deft. Loud Hawk excusing his presence from hearings pursuant to the Order of Remand by the C/A. so ORD 5/3/78 BE

R12) Affidavit of Deft Loud Hawk

May 3 R13) Rec of hrg: Mr. Roberts ex parte telephone mot for cont of the evidentiary hrg—Ord denied. BE

Rec of hrg deft Redner's mot for disc; ORD mot granted in part & govt directed to turn over to defts the FBI 302 forms in ques, not later than 5/4/78. BE

May 8 R14) Gov'ts witness list for 5/9/78.

May 9 R16) Rec of evidentiary hrg: based on C/A ord or remand; evidence adduced; ORD hrg cont'd to 5/10/78 9:30am BE.

May 10 R17) Rec of evidentiary hrg (2nd day): evidence adduced; ORD parties submit briefs & proposed findgs w/in 2 wks after transcript of this hrg is rec'd by parties; UA. BE

May 10 R18) List of exhibits & witnesses.

May 8 R19) Govt's exhibit list for 5/9/78 hrg.

June 16 R20) ORD extending time to file proposed findgs of fact to & incl 7/14/78. s/e 6/16/78 BE

July 14 R21) CJA auth for J. McCloskey for evidentiary hrg.

August 1 R23) Govt's proposed findgs of fact pursuant to 3/6/78 Ord of remand.

August 1 R24) Deft's proposed findgs of fact upon remand.

August 23 R25) CJA 21 auth investigative expneses to Browne Legal IIvestigators.

August 23 R26) Findings of fact & conclusions of law. s/e/m 8/23/78 BE

August 31 R27) Transcript of Evidentiary hrg of May 9, 10, 1978. BE

Sept. 15 Mailed trnscpt of Evid. hrg of May 9, 10, 1978 to C/A.

1980

March 17 R29) MANDATE from C/A reversing and remanding decision of district court with instructions

March 20 R30) ORD from Supreme Court that petion for Writ of Certiorari is denied.

April 2 R31) ORD that cnsl for each of dfts appear at a status call to be held before the Magistrate 9 a.m. 4/14/80 to advise court concerning out-

standing matters. Dfts need not appear Cnsl should furnish on behalf of his or her respective client their written waiver of appearance if client wishes not to appear. Assgnmt of this case to a trial judge for making the determination as to the prejudice aspect of the dismissal as to Cts 3 and 4 will be made in the near futher. s BU 4/2/80

April 16 Rec'd from C/A transcripts & exhibits (see ltr in file)

April 14 R32) Rec of hrg re all pending matters. Ord setting for s/r (9:30) 5/12/80 before trial judge. Ord that all motions be heard 5/28/80 at 9:30 a.m. before trial judge. Ord that all motions be filed w/in 2 wks. Ord reappointing Ronald Schiffman, Lynn Parkinson and Michael Bailey. Ord that defts sign new recognizance papers at district court nearest to where they are living. Finding of Excludable delay from March 17, 1980 until motions are decided. Juba

April 14 R33) List of Motions Filed But Not Decided (fld by Michael Bailey) (for defts KaMook and Dennis Banks)

April 14 R34) Waiver of Appearance for dft Dennis Banks

April 14 R35) Waiver of Personal Appearance by deft KaMook Banks

April 14 R36) Waiver of Appearance by dft Russ Redner

April 16 R37) Supplemental List of Motions Filed but not decided (fld by Lynn Parkinson)

April 24 R38) Notice of Appearance of Cnls. Kenneth Stern appears as local cnsl for Dennis Banks.
R39) Second Supplemental List of Motions Filed But Not Decided (fld by Kenneth Stern for Dennis Banks)

April 23 R40) ORD that case is assigned to Judge Redden. Schedules fixed on 4/14/80 by Judge Juba

will be adhered to, except as may be changed by Judge Redden. s BU 4/23/80

April 24 R41) Defts Mot For Enlargemt of Time to File Pre-Trial Motions (fld by atty Lynn Parkinson)

April 28 R42) Motion IN LImine (dft Loudhawk)

April 28 R43) Mot For Disclosure of Electronic Surveillance (fld by atty Parkinson)

April 28 R44) Mot To dismiss Denial of Speedy Trial (fld by Atty Michael Rose)

April 29 R45) Rec of ord granting dfts mot for enlargement of time to file pre-trial motions. Pretrial motins to be filed by 5/12/80 (note: no oppos to Mot #41 has been fld). Redden

April 29 R46) Ord Specifying Methods and cond of release (for dft Redner)

April 30 R47) Waiver of Appearance—dft Loudhawk

May 9 R48) Mot for Aptmt of National Jury Project (fld by atty for KaMook Banks)

May 12 R49) Mot To Reconsider (Mot To Produce Informants and Mot For Disclosure of the Identity of all Informants (fld by atty for Loudhawk)

May 12 R50) Dft Redner's Mot For Enlargement of Time to File Pre-TrialMotions

May 12 R51) Deft (Dennis Banks) Mot For Enlargemt of Time to File Pre-Trial Motions

May 12 R52) Supplemental Affidavit of Kenneth Stern in Support of Mot For Disclosure of Electronic or Other Surveillance (fly by atty for D. Banks)

May 12 R53) Mot To Suppress Evidence (fld by atty Kenneth Stern for all dfts)

May 12 R54) Rec of status conf:
Ord no hrg required on issue of Forewarning
Ord Non dynamite charges cannot be reinstated.
Ord Further status conf Wed. May 28, 1980 at 9:30 a.m. (RE)
Ord All motions to be fld by 5/28/80.

Ord Motions designated for hrg will be heard June 23, 1980 (RE)

Ord TRIAL DATE FIRM SEPT 3, 1980 9:30 a.m. 5-6 wks (RE)

Oral Stipulation of Cnsl regarding Excludable delay.

Crt ntfd by cnsl that Dennis Banks and Kamook Banks would sign new recog papers in Calif. 5/21/80.

Oral mot by cnsl Bailey for aptmt of Kenneth Stern to represent Dennis Banks—Affidavit of indigency to be fld (U/A)

Waivers of appearance for Dennis Banks and K. Banks re 5/12, 5/28 hrgs to be fld. (per cnsl).

Dennis Banks and K. Banks to sign new recog papers 5/21.

Ord the following previously fld and determined motions are deemed renewed by defts cnsl:

1.;zmot for inspect. reprod and copying records and papers used in Jury Procedure.

2.;zmot for disc & inspect. of Grand Jury Minutes & Testimony

3.;zmot to disclose prospective jurors.

4. Mot For issuance of subs at Public Expense.

Cnsl advised Crt that the following motions will need a hrg: June 23, 1980.

Mot for search and disclosure of electronic surveillance

Mot to dismiss statements

Mot to Suppress personal papers and documts of all dfts seized pursuant to search warrant. Mot to Suppress Hrg.

Mot for rehearing or reconsideration as to defense camp informants.

The following motions are still pending and need determination, as represented by cnsl: (excluding those listed above for hrg)

Mot for additional preemptory challenges

Mot for change in voir dire procedure

Mot for discovery, inspection and copying

Mot for discovery of evidence favorable to the dfts.

Supple mot to dfts mot for discov. Inspec. & Copying

Mot for ord to aid in challenge of grand and petit jury composition

Second mot to dismiss for gross governmental misconduct

Mot to quash or dismiss (re: jury composition)

First mot for discovery and inspection.

(Additional motions to be filed). Redden

May 12 R55) CJA 20 aptg Ronald Schiffman to represent Loud Hawk

May 12 R56) CJA 20 aptg Lynn Parkinson to represent Russ Redner

May 12 R57) CJA 20 aptg Michael Bailey to represent KaMook Banks

May 14 R58) Ord Specifyign Methods and Cond of Release

May 21 R59) Govts Response to Dfts' Mot for Disclosure of Electronic Surveillance

May 27 R60) Govts Mot to Reconsider ORD Disclosing Grand Jury Testimony

May 28 R61) Waiver of appearance by Dennis Banks and Darlene Nichols

May 28 R62) Memorandum In Support of Mot To Suppress (fld by atty Ed Jones)

May 28 R63) Ord Specifying Methods and Cond of Release (D. Banks)

May 28 R64) ORD Specifying Methods and Cond of Release (Darlene Nichols)

May 28 R65) Rec of status conf: Ord that all briefs be fld by June 9, responses to be fld w/in 12 days thereafter (cnsl to submit stipulated list of motions for determination) Ord setting hrg time 9:30 a.m. 6/23/80 on motions. Redden

May 28 R66) Dennis Banks—Mot To Dismiss For Bad Faith Prosecution

May 28 R67) Dennis Banks—Mot To Dismiss, Grand Jury Composition

May 28 R68) Dennis Banks—Mot For Change in Jury Selection Procedure

June 5 R69) Govts Ans to Dfts' Mot to Dismiss Denial of Speedy Trial

June 9 R70) Govts Ans to Defts' Mot to Reconsider (Mot to Produce Informants and Mot For Disclosure of the Identity of All Informants)

June 9 R71) Govts Second Response to Defts' Mot For Additional Preemptory Challenges

June 9 R72) Govts And to Dfts' Mot to Dismiss For Bad Faith Prosecution

June 9 R73) Govt's Second Response to Dfts' Mot For Change In Voir Dire

June 9 R74) Govts Ans to Dfts' Mot in Limine

June 9 R75) Affidavit of Cnsl—S. Lynn Parkinson

June 9 R76) Affidavit of Cnsl in Support of Motions—Michael Bailey for K. Banks

June 9 R77) Memorandum of Law: Voir Dire Procedures, Preemptory Challenges; Supporting Affidavit (fld by atty M. Rose for dfts)

June 9 R78) Memorandum of Law: Jury Composition (fld by atty M. Rose for dft Dennis Banks

June 9 R79) Mot To Amend Mot To Dismiss For Bad Faith Prosecution (fld by atty Kenneth Stern for Dennis Banks on behalf of all dfts)

June 16 R80) Govts Ans to Dfts Mot for Reconsideration or Rehearing (as to Defense Camp Informants)

June 18 R81) SUPERSEDING INDICTMENT
26 USC 5861(d) & 5871 and 18 USC 2 Possession of explosive Device; Possession of Explosive Device with No Registration COUNTS 1, 2, 3, 4

18 USC 992(k), 924(a), & 2 Possession of Firearms with Obliterated Serial Numbers COUNT 5

June 20 R82) GOVT response to dfts' motion for appointmt of National Jury Project.

R83) GOVT answer to dfts' mot to suppress and motion to suppress personal papers and documents of all Dfts seized pursuant to Search Warrant.

R84) GOVT answer to dfts' mot for change in jury selection procedure.

June 24 R85) Affid of Kenneth Stern in support of mot to reconsider Disclosure of Defense Camp Informants and mot for Discovery and Inspection.

June 23 R86) Rec of arraignmt of Kenneth Loudhawk on Superseding Indictmt fld 6/18/80. Plea of NG entered by dft to cts 1-5. Trial date of Sept 3 (firm). Record of hrg motions—witnesses sworn, evid adduced—see separate list of witnesses and exhibits. Ord continuing hrg to 6/24/80 at 10:30 a.m. Ord granting exclusion of witnesses from the courtroom. SEE ATTACHED LIST OF MOTIONS. Ord taking U/A the following motions:

1. Govt Mot to Reconsider Ord Disclosing Grand Jury Testimony
2. Mot to Suppress (Stop Issue)
3. Mot to Suppress (Warrnat)
14. Mot for Rehearing or Reconsideration.

Remaining dfts to be arraigned on Aug 5, or 10 days prior to trial. Redden

June 24 R87) List of Exhibits and Witnesses for Mot to Suppress

June 24 R88) Rec of continuation of hrg pending motions: Ord that additional motions be filed by July 3, 1980; briefs to be fld by July 14; Argumt Aug 5 at 9:30 a.m. Ord granting dfts mot for transcript of Evid. portion of hrg 6/23. Briefs on evid hrg to be fld w/in 1 wk after de-

livery of transcript. Ord granting dft Loudhawk's oral mot (by cnsl) for waiver of appearance at future pretrial hrgs. Govt to advise Court if Peltier will be tried Sept 3, 1980.

Disposition of motions not under advisemt: (see numbered list of motions attached to June 23 minute order-R86)

#5 New motion in Limine to be fld.
#6 to be considered later
#7 to be considered later
#8 to be considered later
#9 "
#10 "
#11 "
#12 "
#13 "
#14 &#15 ruling delayed
#16 U/A
#17 new motion to be filed
#18 to be considered later
#19 determined as moot
#20 dfts to file new motion
#21 to be considered later
#22 U/A
#23 to be considere dlater
#24 "
#25 determined as moot—cnsl to proceed against new indictmt. Redden

June 27 R89) ORDER—re motions heard June 23-24, 1980.

Re Mot to Reconsider Ord Disclosing Grand Jury Test.—The Grand Jury test shall be turned over to dfts after the proceedings have been transcribed.

Re Mot to Recnosider Disclosure of Defense Camp Informants—govt shall provide crt w/informant files and lists in this case for an *in camera* inspection.

Mot For Issuance of Subs at Public Expense—Ord Granting

Mot For Disclosure of Names of Prospective Jurors—Mot Granted.

Names of prospective jurors will be made availabe to dfts 3 wks before trial.

Mot For Ord to Aid Challenge of Grand and Petit Jury Composition—Mot granted in part as to petit jury. Redden

June 30 R90) Dfts' Mot For Enlargemt of Time to File Pre-Trial Motions (fld by atty Stern on behalf of all dfts)

July 3 R91) Rec of ord GRANTING DFTS' Motion For Enlargement to Time to File Pre Trial Motions to July 7, 1980. Ord Granting Govt Mot For Extension of Time to Respond to July 24, 1980.

July 7 R92) Mot To Dismiss Cts 3 and 4 for Insufficient Allegations (fld by atty Parkinson—atty for Redner on behalf of dfts)

July 7 R93) Mot To Suppress Evidence of Pretrial Photographic Identification and Tainted Potential Courtroom Identification (fld by atty Parkinson—atty for Redner of behalf of dfts)

July 7 R94) Transcript of Testimony dated June 23, 1980 before Judge Redden

July 7 R95) Mot For change in Jury Selection Procedure (Dennis Banks)

July 7 R96) Mot To Dismiss: Grand Jury Composition (Dennis Banks)

July 7 R97) Mot To Dismiss For Vindictive Prosecution (Dennis Banks)

July 7 R98) Second Mot In Limine (Dft Loudhawk)

July 7 R99) Mot To Dismiss For Preindictmt Delay (KaMook Banks)

July 14 R100) Dfts' Memorandum Re: Founded Suspicion (fld by Ed Jones for dfts)

July 14 R101) ORD RE interim Payments For Representation of Assigned Cnsl—Finding that due

to nature of complexity of this case the compensation for services to be provided by cnsl is virtually certain to exceed the $1,000 limit for all cnsl. s Redden 6/25/80 approved 7/1/80 Browning

July 21 R102) Motion For Disclosure and Production (D. Banks)

July 21 R103) Mot For Aptmt of Investigator at Govt Expense (Dennis Banks)

July 21 R104) Affidavits in Support of Mot for Aptmt of Investigator at govt Expense: Mot For Disclosure and Production, and; THIRD MOTION TO DISMISS For gross governmental Misconduct

July 21 R105) Third Motion To Dismiss For Gross Governmental Misconduct (Dennis Banks)

July 24 R106) Govts Response to Dfts' Mot For Change in Jury Selection Procedure (fld 7/7/80)

July 24 R107) Govt's Ans to Dfts Mot To Suppress Photographic Identification and Tainted Potential Courtroom Identification

July 24 R108) Govt's Ans to dfts mot to Dismiss for Pre-Indictmt Delay

July 24 R109) Govt's ans to dfts Mot To Dismiss Cts 3 and 4 for Insufficient Allegations

July 24 R110) Govt's Ans to Dfts Second Mot in Limine

July 24 R111) Govt's Response to Dfts Mot to Dismiss: Grand Jury Compsition (Fld 7/7/80)

July 24 R112) Govts Ans to Dfts' Mot To Dismiss For Vindictive Prosecution

July 25 R113) ORDER—

Dfts Mot To Suppress is Denied.

Mot To Suppress Personal Papers and Documts of Dfts Seized Under Search Warrant is Denied.

Mot To Reconsider Mot To Disclose Informants A & B is Denied in Part.

An *in camera* session shall be conducted w/ cnsl for govt and FBI agent familiar w/ Informants

A & Bs' role, the transcript of the proceedings shall be sealed and made a part of the record s RE 7/22/80 m 7/25/80 ent 7/28/80

July 28 R114) Mot To Quash Indictment or, In the Alternative, To Strike (fld by atty for Dennis Banks on behalf of all dfts)

August 4 R115) Govt's Ans to Dfts Mot For Appointment of Investigator at Govt Expense

August 4 R116) Govt's Ans to Dfts Third Mot To Dismiss For Gross Governmental Misconduct

August 5 R117) Govt's Ans to Dfts Mot To Quash Indctmt or, In the Alternative, To Strike

August 5 R118) Rec of hrg motions:

Motion to Dismiss for vindictive prosecution—Witness sworn: C. Turner

Mot to Dismiss for pre-indictmt delay

Motion (Second) In limine

Mot to Dismiss Counts III & IV for insufficient allegations

Mot to Suppress Evid of Pretrial photographic identification and tainted potential courtroom identification; Witness sworn:

Daniel S. Jacobs; Exhibs: Govt. A-1, A-2, A-3 (7 photos. Wanted Flyer Peltier and Wanted Flyer Blackhorse)

ORDER taking motion U/A.

Additional dfts to be arraigned 5 days prior to trial.

Ord continuing hrg to August 12, 1980 at 9:30 a.m. RE.

Sealed envelope continuing inventory of breafcase, returned to the custody of the Clerk, U.S. District Court—VAULT—5th Floor, cabinet 5 drawer B

August 8 R119) CJA 21 authorizing services of Jerry Harris, Court reporter

August 8 R120) ORD regarding motions in documt #R118:

Motion To Dismiss for Vindictive Prosecution:

The Motion to Dismiss is *Denied except* as to Dft KaMook Banks (Kamook Banks is dismissed)

Mot to Dismiss for Prc-Indictment Delay

The Motion is denied.

Second Motion in Limine:

The Motion as to Dft Dennis Banks is denied. Because of previous ruling, this motion is Moot as to KaMook Banks. The mot as to evidence relating to search for and attempt to arrest dfts Banks and Peltier is grnated in part. Govt may only introduce evidence of events which occurred at the scene of the alleged crime.

Mot to Dismiss Counts III and IV for Insufficient Allegations

The motion is denied.

Mot To Suppress Photographic Identification and Potential Tainted Courtroom Identification

The motion is denied.

Mot For Appointment of Investigator at Govt Expense

The motion is denied. m/ s REDDEN 8/8/80 ent 8/11/80

August 8 R121) ORD that the case of Leonard Peltier is severed from the remaining dfts. s Redden 8/8/80

August 12 R122) AMENDED ORD—Page 1-2, 3, lines 1-22 of the ORDER dated August 8, 1980 (documt #R120) is amended re: Mot To Dismiss for Vindictive Prosecution—see Amended Ord. s/m/e 8/12/80 REDDEN

August 12 R123) Rec of ord setting pretrial conf August 25, 1980 at 10:30 a.m. before Judge Redden, Courtroom #1, 6th floor

August 12 R124) Rec of hrg motions:

1) First Mot to Dismiss for Gross Governmental Misconduct ORD Denying Motion
2) Second Mot to Dismiss for Gross Governmental Misconduct ORD Denying Motion

3) Third Mot to Dismiss for Gross Governmental Misconduct ORD this mot to be considered at a later date.
4) Mot to Quash or, in the alternative to Strike ORD Denying MOT
5) Mot to Dismiss for Bad Faith Prosecution MOT W/Drawn
6) Mot for Search and Disclosure of Electronic or Other Surveillance. ORD this mot to be heard later
7) Mot in Limine ORD this mot to be heard later
8) Mot for Change in Jury Selection Procedure, Mot to Dismiss Grand Jury composition. ORD denying motins w/ leave to renew
9) Mot to Dismiss, Denial of Speedy Trial ORD denying motion.
10) Mot for Aptmt of National Jury Project., ORD Denying Motion.
11) Mot for Aptmt of Investigator (ex parte hrg) ORD taking motion U/A. RE

August 15 R125) D. BANKS—Notice of Appeal from ord entered 8/12/80

August 14 R126) Rec of reconsideration of ord denying dfts mot for aptmt of Investigator at Govt Expense. ORD Granting dfts mot for aptmt of Investigator at expense of Govt. RE

August 14 R127) Rec of ord that dfts cnsl be furnished a list of prospective jurors w/ addresses of same. RE

August 15 R128) Ex Parte Mot for Stay of Proceedings (D. Banks) until such time as C/A decides issued of Appeal of Amended Ord Denying dfts Mot to Dismiss for Vindictive Prosecution

August 15 R129) Rec of ord granting dft Dennis Banks' ex parte motion for stay of proceedings. RE

August 21 R130) Notice of Appeal from dft Redner from amended or dentered 8/12/80

August 21 R131) Designation of Reporters Transcript—Dennis Banks

August 22 R132) CJA 20 authorizing services of Kenneth Stern

August 22 R133) NOTICE OF APPEAL from dft. Loudhawk from the order entered August 12, 1980.
No fees pd—appointed counsel.
Mailee copy of notice of appeal to Schiffman, Youngsman, USM, probation, Bailey, Sterns, Mr. Loud Hawk, & Parkinson.
Mailed copy of notice of appeal, docket, order of appointment to court of appeals.

August 23 R134) Designation of Reporters Transcript (Redner)

August 26 R135) Ex-Parte Mot For Aptmt of Cnsl on Appeal and Paymt of Transcript Production With Supporting Affidavit (dft Redner)

August 26 R136) Affidavit of Cnsl (Redner)

August 26 R137) Rec of ord striking trial date and staying proceedings as to all dfts—pending appeal. RE

August 29 R138) Rec of ord denying dfts mot to reconsider mot to produce informants and mot for disclosure of the identity of all informants. RE

Sept. 2 R139) Notice of Appeal (dft KaMook Banks)

Sept. 3 R140) Designation of Transcript (Loudhawk)

Sept. 4 R141) Motion To Dismiss, w/ attached Mot for Oral Argumt on Mot to Dismiss, Mot to Allow Dft to Serve as Co-Cnsl, (dft Peltier) fld by atty Jack L. Schwartz

Sept. 3 R142) Mot For Aptmt of Cnsl on Appeal (Loudhawk moves for aptmt of Schiffman)

Sept. 4 R143) Rec of ord granting mot of dft Russ Redner for aptmt of Lynn Parkinson as cnsl for purposes of appeal. Rec or- ord granting mot to Loudhawk for aptmt of Ronald Schiffman as cnsl for purpose of appeal. Further ord granting preparation of transcripts at govt expense

Sept. 8 R144) ORD for Time Schedule from C/A (dft Loudhawk)

Sept. 8 R145) Ord for Time Schedule from C/A (dft Redner)

Sept. 8 R146) Ord for Time Schedule from C/A (dft Banks, Dennis)

Sept. 10 R147) Ex Parte Mot for Aptmt of Cnsl on Appeal and Paymt of Transcrpt Production (Dennis Banks)

Sept. 10 R148) Rec of ord Granting dft Dennis James Banks' mot for aptmt of cnsl on appeal and paymt of transcript production at govt expense. RE

Sept. 12 R149) ORD from time schedule from C/A

Sept. 17 R150) KaMook Banks—Designation of Transcript

Sept. 24 R151) Transcript of Proceedings dated May 12, 28, 1980 before Judge Redden

Sept. 24 R152) Transcript of Proceedings of the Testimony of Sidney Rubin dated June 23, 1980 before Judge Redden
R153) Transcript of Hrg on Motions dated June 24, 1980 before Judge Redden
R154) Transcript of Hrg on Motions dated Aug 5 and Aug 12, 1980 before Judge Redden

Sept 25 R155) Supplemental Designation of Transcript

Sept. 26 R156) Transcript of Proceedings dated 11/18/75 before Judge Juba

Sept. 26 R157) Transcript of Proceedings dated 11/26/75 before Judge Juba

Sept. 26 R158) Transcript of Proceedings dated 12/8/75 before Judge Juba

Sept. 26 R159) Transcript of Proceedings dated 4/14/80 before Judge Juba

Oct. 2 R160) Discovery Material Provided By the Govt (Volume I and II)

Oct. 6 R161) Ord from C/A that appellant's mot of Sept. 25, 1980 for extension of time to file opening brief is granted.

Oct. 15 R162) Appellants designation of clerks record received.

Oct. 22 R163) Appellees designation of clerks record received.

Oct. 23 Mailed record on appeal to court of appeals.

Oct. 16 R162a) CJA 20 appointing Ronald Schiffman.

1981

Feb. 3 R181) CJA 20 aptg Ronald Schiffman for Loud Hawk FINAL VOUCHER
R182) CJA 20 aptg Lynn Parkinson for Russ Redner FINAL VOUCHER
R183) CJA 20 aptg Kenneth Stern for Dennis Banks FINAL VOUCHER
R184) CJA 20 aptg Michael Bailey for Ka-Mook Banks FINAL VOUCHER

March 9 R186) Mot for ORD Dismissing Indictmt as to dft Peltier. SO ORD s Redden 3/7/81 m/e 3/10/81

June 1 R187) CJA 20 aptg Jack L. Schwartz for Leonard Peltier

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Oct. 18 R188) ORD from C/A that appelant's mot for substitution of counsel is granted. Kenneth S. Stern will be appointed by separate order.
R189) CJA 20 aptg Kenneth Stern for Loud Hawk.

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Jan. 31 R190) MANDATE from C/A. Appeals are dismissed as to appellants Dennis Banks, Redner and Loud Hawk for lack of jurisdiction; reversed in part as to appellant Ka-Mook Banks.
R191) ORD from S/C. Petition for a writ of certiorari is denied.

Feb. 1 R193) ORD setting status conf. Mon., 2/14/83 at 3:00 p.m. before Judge Redden.

Feb. 3 R194) ORD striking Status Conf of 2/14/83 & RESETTING to Wed., 3/9/83 at 9:00 A.M. before Judge Redden.

Feb. 18 R195) ORD changing time only to 1:00 p.m. for Stat. Hrg. 3/9/83

Feb. 25 R196) Rec of ord—setting trial date April 11, 1983 commencing at 9:30 a.m. RE

Mar. 1 R197) Mot for ORD of Ex Delay. AUSA moves for ORD extending time for trial to commence between wk of May 16, 1983 and Aug 8, 1983,—Affidavit attached.

Mar. 9 R198) Rec of ord setting following sched:
March 24, 1983 8:30—Status conference regarding discovery, hrg on dfts mot for aptmt of expert to assist in jury selection, and hrg on other jury motions pending, hrg on dfts mot for search & disclosure of electronic or other surveillance.
Order—dfts to file any new motions by March 21, govt response due March 28. Hrg April 6, 1983 9:30 a.m. Arraignment of dfts on this date unless cnsl file the necessary motions 30 days prior to this date. (Hrg on dfts mot in limine and 3rd mot to dismiss for govt misconduct).
Ord *Trial* of this case shall commence *May 3, 1983 at 9:30* (jury 10 days) (Strike trial date of 4/11) RE
Ord denying Mr. Schiffman's oral mot to be relieved as cnsl for Mr. Loud Hawk. RE

Mar. 10 R199) Rec of in camera submission of documents relating to dfts' mot to determine electronic surveillance. Govts. response submitted. Sealed documents submitted to Court for in camera inspect. RE
R200) Notice of In Camera Submission—fld by Charles Turner, USAtty
R201) Govts Response to Dfts Second Mot For Disclosure of Electronic Surveillance

Mar. 14 R202) Letter from Judge Redden to Kenneth Stern re Ex Parte Motions for Investigative Services and Travel Expenses.

Mar. 15 R203) ORD the in camera proceedings before the Court on March 10, 1983 are sealed until further ord of Court s RE 3/14/83

Mar. 17 R204) Reporter's Transcript of Proceedings of March 10, 1983 Sealed by ORD of Judge Redden (In Camera Proceedings)

Mar. 17 R205) Govt's Mot for Discovery Pursuant to Rule 16(b), FRCP

Mar. 17 R206) Transcript of Proceedings dated March 9, 1983 before Judge Redden

Mar. 18 R207) Ex Parte Mot for Authorization of Travel Expenses under 18 USC 3006A(e) (fld by Stern) (see letter doc#R202)

Mar. 18 R208) Ex Parte Mot for Authorization of Investigative Services (see letter doc#202)

Mar. 21 R209) OPINION and ORD that contents of the sealed exhibit shall not be disclosed. s/RE 3/21/83

R210) Mot to dismiss for abuse of Grand Jury process (filed by Parkinson of behalf of all dfts.)

R211) Motion for order requiring discovery (filed by Parkinson on behalf of all dfts).

R212) Motion to dismiss for continued litigation is overly burdensome on the court and all parties (filed by Parkinson on behalf of all defts).

R213) Discovery motion/Brady Material (filed by Parkinson on behalf of all dfts).

Mar. 21 R214) Ex Parte Motion for appointment of expert to assist defense and conduct of voir dire (Redner and Dennis Banks).

R215) Exhibit in Support of Dfts' (various) jury selection motions and for appointment of expert (filed by Steenson on behalf of all dfts).

R216) Motion for Trial in absentia or in the alternative, Motion for trial with dft's electronic presence (Dennis Banks).

March 22 R217) Ex Parte ORD: travel expenses for counsel under CJA not to exceed $600.00 are hereby ordered. No excludable delay has occurred in connection with this matter. s/RE 3/22/83. (Denniss Banks)

R218) Rec of conf w/counsel. Court rptr present for reporting presence of counsel. ORD striking hrgs scheduled 3/24/83 and 4/6/83.

March 23 R219) Rec of ORD: All responses and herings on motions are deferred until further order of the court. RE

March 31 R220) Waiver of Appearance of Kamook and Dennis Banks.

R221) Waiver of 30-day time limit between arraignment and trial. (Kamook Banks)

R222) Waiver of 30 day time limit between arraignment and trial. (Dennis Banks).

April 11 R223) Recof ORD: striking trial date May 3, 1983 and setting trial date of May 23, 1983. All motions to be filed by April 20, 1983. Mot hrg set May 9, 1983 at 2:00 p.m.

April 19 R224) Rec of ORD: setting conf. w/counsel Wed. April 20, 1983 at 1:30 p.m.

April 20 R225) Rec of Status Conf: Ord all motions together w/ supporting memorandum to be filed by 4/22 together w/ list of motions to be argued. ORD PTC 4/27 1:30 (re Banks dfts) ORD Govt resp to motions due 4/27. ORAL ARg 4/29/83 at 1:30 p.m. ORD EVID HRG May 6, 1983 (re jury motions) ORD PTC set May 16, 1983 and May 23, 1983 at 1:30 p.m. **TRIAL DATE JUNE 13, 1983 9:00 a.m.* (7-10 days jury) RE

April 22 R226) Govts Ans to DFts MOt For Discovery

April 22 R227) Supplemental Exhibits In Support of Mot For Trial in Absentia (fld by atty Stern for D. Banks)

April 22 R228) Memo of Law in Support of dfts' Mot to Dismiss for Abuse of Grand Jury Process (filed by atty Parkinson for all dfts).

April 22 R229) Memo of Law/Speedy Trial (filed by atty Rose for all dfts)

April 22 R230) Mot to Reconsider or Renew Dfts' Motions for Discovery of Defense Camp Informants (filed by atty Parkinson for Redner)

April 25 R231) Mot to Strike or in the alternative to Compel Election (filed by atty Schiffman for all dfts).

April 27 R232) Govts Ans to Dfts' Mot to Strike Cts 3 and 4 or in the alternative to Elect as to Cts 1 and 2; and 3 and 4

April 27 R233) Govts Ans to Dfts' Mot for Discovery

April 27 R234) Govts Ans to Dfts Mot to Dismiss Because Continued Litigation is Overly Burdensome

April 27 R235) Govts Ans to Dfts Mot for Brady Material

April 27 R236) Govts Ans to Dfts' Renewed Mot for Disclosure of Defense Camp Informants

R237) Govts Ans to Defts' Mot to Dismiss for An Abuse of The Grand Jury Process.

R238) Rec of CONF: Rec of ex party hrg mot for apptmt of expert to conduct independent poll re: voir dire of prospective jurors.

ORD taking U/A. RE

April 28 R239) Govt ANS to Dfts' MOT to dismiss for delay of trial.

April 29 R240) Rec of mot hrg. Hrg held on mot for further exculpatory matters, mot re defense camp informat and mot re defense camp informant and mot for dismissal. Ord ruling deferred; affidavits from counsel to be submitted as soon as possible. If further argument is needed, it will be sched. 5/6/-83.

ORD granting MOT for appt of expert to assist in poll in part, limited to amt of $7500 and subject to approval of Judge Browning.

ORD setting argument on Mot to Dismiss (Loudhawk) for 5/6/83 (tentatively).

R241) Affidavit of counsel in Support of Mot to Dismiss (Pretrial delay) (filed by Schiffman)

R242) Affidavit (filed by Rose)

May 2 R243) ORD granting dft's mot for appt of expert to assist in poll, except that the total authorization is limited to $7,500. S/RE 5/2/83

May 4 R224) Mot to Strike Cts I-IV Insufficiency of Indictmt (fld by atty Schiffman for Loud Hawk)

May 6 R245) Rec of mot hrg. Dfts' Rule 16 mot for discovery—denied.

Defts' mot to dismiss (Grand Jury Misconduct)—denied.

Deft's mot to dismiss (Burdensome)—denied.

Defts' mot to Strike/Elect counts-U/A

Defts' mot for additional preempt. challenges—granted.

Gvt's mot for reciprocal discovery—granted.

Dfts' mot to change voir dire procedure—U/A.

Rule 16 mot for discovery—Govt submitted documents—except for witness statements. Affidavit of Mr. Parkinson submitted for in camera inspection, dfts Banks joined in affidavit. RE

May 9 R246) Affidavit of Counsel for Dft Redner in Support of Mot to Dismiss (Pretrial Delay).

May 9 R247) Affidavit submitted for in camera inspection. Affidavit of L. Parkinson in support of Mot to Dismiss (pretrial delay) (sealed per RE 5/9/83)

May 12 R248) ORD granting motion for aptmt of expert—Northwest Attitudes and Social Research, Inc. and Cogan and Associates to conduct research project in aid to jury selection. Total authorization is limited to $7,500. s RE 5/2/83 SO ORD s James R. Browning, Chief Judge U.S. C/A 5/5/83

May 12 R249) Govts Ans to Dfts Mot to Strike Cts 1, 2, 3 and 4 for failure to State a Crime

May 16 R250) CJA 20 authorizing payment to Stern. (D. Banks).

R251) CJA 20 authorizing payment to Parkinson (Redner)

R252) Rec of hrg on pending motions. ORD that voir dire, jury inst., trial memos be submitted by 6/6/83.
Mot to dismiss (pretrial delay)—U/A.
Mot re further exculp. matters—U/A.
Mot for disclosure of defense camp informants—denied.
Mot to strike or cause govt to elect—denied.
Mot for change in voir dire proceedings—U/A
Mots in limine—U/A
Mot to dismiss (failure to state crime)—U/A
Govt's mot to have access to in camera affidavit of Parkinson—denied.
Mot for native american judge—Judge Belloni's ruling still stands.

May 19 ORD that govt is authorized to withdraw from Clerk all exhibits entered into evidence by govt during the various pretrial hrgs for preparation for trial and to be used during trial. s/RE 5/19/83

R254) ORD that govt is authorized to offer into evidence and to otherwise use any transcripts of proceedings before Grand Jury which returned the 6/18/80 Superseding Indct. during any proceedings involving proposed pleas of guilty by dfts Dennis Banks and KaMook Banks. s/RE 5/19/83

May 20 R255) (Dfts') Mot for Discovery.

May 20 R256) (Dfts') Memo is Support of Mot for Discovery.

May 20 R257) (Dfts') Ex Parte Mot for Authorization of Transcript Duplication Expenses under 18 USC 3006(A)(e). SO ORD RE 5/20/83

May 20 R258) Rec of ORD: ORD that defts' mot for Further Exculpatory Matter is denied based on the govt's assurance that it has produced all exculpatory materials.
Dfts' Mot to Dismiss for Failure to State a Crime—Denied
Dfts' Mot in Limine—Denied

Dfts' mot for Change in Voir Dire—Denied as moot.
Dft D. Banks' Mot for Trial in Absentia—Denied as Moot.

May 20 R259) OPINION that indictment is dismissed with prejudice as to all dfts. s/RE 5/20/83 m/e 5/20/83

May 20 R260) ORD that dfts' Mot to Dismiss is Granted. The indictment is dismissed w/prejudice as to all dfts. s/RE m/e 5/20/83

May 27 R261) (Govt's) Mot continuing each of the subpoenas previously served on its prospective witnesses pending resolution of any appellate proceedings or until further ord of ct. SO ORD RE 5/27/83

R262) (Govt's) Mot for ord auth it to depose each of its prospective witnesses in order to preserve their testimony for use at trial pursuant to Rule 51(a), Fed. R. Cr. P. SO ORD RE 5/27/83

June 2 R263) (Govt's) Mot for an order directing Clerk to file the orig of Govt's response to the proposed plea procedure by dft Dennis Banks.

June 2 R264) (Govt's) Mot for an order directing the court rptr to transcribe proceedings of March 10, 1983, April 8, 1983, April 20, 1983, April 27, 1983, April 29, 1983, May 6, 1983 and May 16, 1983.

June 3 R265) Rec of Ord: setting aside orders entered May 27 (R261 and R262) (see minute entry). RE
Ord setting Status Conf and mot hrg (re document #R263, R264, R261 and R266) before Judge Redden 6/24/83 at 9:30 a.m.

June 7 R267) Rec of ORD: striking hrg scheduled for June 24, 1983 and resetting to June 30, 1983 at 12:00 noon.
Dfts allowed until 6/28/83 to file responses to motions. RE

June 13 R268) Govt's Objection tothe Continuance in the 6/24/83 Hrg.

June 14 R269) Govt's Memo in Support of Post Dismissal Motions.

June 17 R270) NOTICE OF APPEAL—by Govt from ORD dated May 20, 1983 dismissing Indictmt. no fees paid.

June 17 R271) Ord For Time Schedule

June 17 Mld copy of N/A to dft, USM, defense cnsl, & AUSA

June 17 Mld copy of N/A, dkt and ord to C/A

June 17 R272) Rec of ORD: that the govt's request to strike the 6/30 hrg and reset it to 6/24/83 is DENIED. RE

June 20 R273) CJA Frm 20 authorizing payment to Parkinson (for dft Redner)

June 23 R274) Response to Govts Motions to Depose and To Continue Subpoenas

June 24 R275) Rec of Ord: rescheduling hearing from 12:00 noon to 11:00 a.m. 6/30/83. RE

June 28 R276) Response to Govt's Post-Dismissal Motions (filed on behalf of Dennis Banks, KoMook Banks and Loudhawk).

June 29 R277) Transcript of Proceedings dated April 29, 1983, May 6, and May 16, 1983 before Judge Redden

June 30 R278) Rec of hrg govts motions to Depose Witnesses, Continue subpoenas, Transcribe In Chambers Proceedings, and Mot For Ord to file Govts Response to Proposed Plea Procedure re Dennis J. Banks (4 motions). Ord taking U/A. RE

June 30 R279) Letter from Charles Turner, US Atty re hrg of June 30, 1983.

March 21 (out of order) R216a) Mot to Dismiss For Delay of Trial—fld by atty Stern on behalf of all defts.

July 1 R280) (Govt's) Transcript Designation and Ordering Form.

July 5 R281) ORDER declining the rule of govts motions filed after the appeal. s RE 7/5/83

July 5 R282) Letter from Kenneth Stern re AUSA request to transcribe confidential proceedings.

July 6 R283) Transcript of Proceedings dated June 30, 1983 before Judge Redden

July 11 R284) Transcript of Proceedings dated March 3, 1976 before Judge Juba

July 19 R285) Transcript Designation and Ordering Form

July 28 R286) Transcript of Grand Jury Testimony of Clayton Kramer, Steven L. Hancock, David Milam and James Karolides of 6/17/80.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. 75-296-2

UNITED STATES OF AMERICA, PLAINTIFF

v.

RUSS JAMES REDNER, DEFENDANT

RELEVANT DOCKET ENTRIES

11-17-75	Filed complaint and issued warrant.
11-18-75	First appearance Deft. admitted identity and was advised of rights. Order setting for preliminary hearing Nov. 26, 1975, 9:30 a.m.
11-19-75	Filed Warrant with return showing arrest of deft. by FBI on 11-14-75.
11-25-75	Indictment returned.
11-26-75	CLOSED-to Clerk's Office.
Nov. 25	( ) Filed Indictment
Nov. 25	6) Issued warrant for arrest of deft ($100,000 cash or corp surety requested)
Nov. 20	( ) Filed defts' Motion for Pretrial Release
Nov. 26	( ) Record of arraignment: Ms. Iea and Mr. Schiffman will serve as counsel without fee. Defts waived reading of the indictment. (Court summarized charges.) Defts were advised of rights. Order setting for plea 12/8/75 and bail motion J
Nov. 26	7) Filed return of service of bench warrant exec 11/26/75
Dec. 8	8) Record of entry of Plea of Loud Hawk and Redner. Pleas of NOT GUILTY entered to each of cts 1 thru 9 by each deft. Order setting for trial week of 2/9/76 2 wks jury. Order that pretrial motions be filed prior to Christmas. Order allowing motion for appt. of investigators defense counsel to prepare forms.

	Record of hearing on bail motion. Defts. witness Gregory Lynch. Order reinstating bail to $50,000.00 J
Dec. 8	9) Filed motion for contact visits
Dec. 9	10) Filed findings and order that defts motion for release is DENIED., and bail is set in the amount of $50,000.00 m 12/17/75., J s 12/9/75
Dec. 9	11) Filed order that defts. motion for an order requiring the US Marshal his agents and employees to permit contact visits with their friends and family., is DENIED m12/17/75., J s 12/9/75
Dec. 15	Filed defts motion to review and amend the conditions of release and for formal evidentiary bail hearing
Dec. 22	FILED SUPERSEDING INDICTMENT
Dec. 22	Issued warrant for arrest of deft. ($50,000.00 cash of corp. surety)
Dec. 22	Record of order setting arr. and plea for 12/29/75 RCB
Dec. 23	Filed gov. motion to compel handwriting exemplars
Dec. 23	Filed defts. motion to suppress
Dec. 24	Filed defts. first motion for discovery and inspection
Dec. 24	Filed defts. motion for a bill of particulars
Dec. 24	Filed defts. motion to dismiss or to suppress
Dec. 24	Filed motion to disclose informants
Dec. 24	Filed defts. motion for inspection reproduction and copying of records and papers used in connection with jury selection process
Dec. 24	Filed defts motion to review and amend order regarding contact visits and motion for contact meetings with potential defense witnesses
Dec. 24	Filed defts motion for search and disclosure of electronic or other surveillance

Dec. 29 Record of arr. and pleas of NOT GUILTY entered as to each ct. 4 cts. of the indictment by defts. LOUD HAWK and REDNER Ordered trial set for the wk of 2/9/76 Ordered deft. file any additional motions not later than 1/12/76. Gov. allowed 2 wks to reply and defts. may reply within 1 wk. Hearing dated for motions set 1/23/76 at 9:30 AM. Record of hearing defts. motion for reduction of bail. Evidence adduced. Bail planto be submitted to the court. Motion taken under advisement

Dec. 29 Filed return of warrant of arrest dated 12/22/75 exec. 12/29/75

1975

Dec. 31 Filed order requiring the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof in the amount of $50,000.00 see order for more details m 12/31/75., ntfd RCB s 12/31/75

1976

Jan. 8 Record of hearing on govt. motion for handwriting exempars. Order granting with protective order that exemplars only be used in this case in Oregon To be taken 1/9/76., in Marshals office. Record of hearing onmotion for contact visits today. Order allowing

Jan. 8 Filed order that defts. Loud Hawk and Redner are to furnish the FBI with handpring and handwriting samples which are to be used solely as a standard of comparison in order to determine whether or not they or both of them are the author of certain writings etc. m 11/9/76 J1/8/76

Jan. 12 Filed defts. motion to compel the transcription of all future grand jury proceedings concerning these defts.

Jan. 12 Filed defts. motion for disclosure and inspection of grand jury minuts and testimony

Jan.;lt12 Filed defts. motion for disclosure of names of prosepecitive jurors

Jan. 12 Filed defts. first amended motion for a bill of particulars

Jan. 12 Filed defts. motion to strike

Jan. 12 Filed defts. motion to sever

Jan. 12 Filed gov. response to defts LOUD HAWK AND REDNER motions: For inspection reproduction, and copying of records and papers used in connection with jury selection process; for search and disclosure of electronic and other surveillance; to disclose informants to dismiss or suppress; for discovery and inspection to suppress; for a bill of pariculars

Jan. 14 Filed gov. motion to move the court for an order to show cause directing Kenneth Loud Haw and Russ Redner to show cause why they should not be held in contempt for refusal to furnish handwriting exemplars as directed by the court.

Jan. 16 Filed return of summons and instructions exec. 1/15/76

Jan. 20 Filed defts. reply on motion to disclose informants

Jan. 20 Filed reply to gov. response to motion to suppress or dismiss

Jan. 21 Record of pre hearing conference. Court may examine the Oregon State Police reports in camera if the gov. does not disclose these maerials. Trial to be reset to 3/8/76 on motion of the defts. Gov. requests for contempt hearing will be heard after the trial if this remains be an issue. Counsel stipulate that all motions will be filed not later than 1/28/76 except jurisdictional motions which may be filed later.

Jan. 23 Record of hearing defts. motions to dismiss cts 1,2 and 3 of the ind. in the alternative to supress. Motion to disclose informants and motion for search and disclosure of electronic

or other surveilance and motion of disclosure and inspection of grand jury minutes and testimony and motion strike language in cts. 1,2 and 3. of the ind. Ordered motions taken U/A/ Record of hearing defts. motions first motion for disclosure and inspect and motion for inspection reproduction and copying of records and papers used in connection with the jury selection process. Counsel inform court these matters babe been or will be satisfied. Record of hearing defts. motion to sever the trial from trial of Banks and Peitier, Ordered motion 2granted. 1Record of hearing defts. motion to require gov. to disclose names of witnesses before grand jury *granted*. Record of hearing defts. motion to compel transcription of all future grand jury proceedings concerning these defts. *sgranted*. Record of hearing defts. motion for continuance of trial. Ordered motion *GRANTED*. and case continued from 2/9/76 to the firm date of 3/8/76 Ordered all motions be filed not later than 1/28/76 except jurisdictional motions. Record of hearing defts. motion for disclosure of names and addresses of prospective jury panel *Under advisement*, but if this motion granted the names and addresses will not be disclosed prior to one wk before trial. Gov. motion for OSC re contempt will be heard after the trial. Counsel inform court that defts motion for bill of particulars is MOOT. Counsel inform court that 1st amended motion for bill of particular need not be heard at this time

Jan. 23 38) Filed order that defts. motion to disclose informants be *DENIED*.because the defts, have not shown that the disclosure of the identity of the inf. would serve a necessary purpose. It is ordered that defts. motion for inspection reproduction and copying of records and papers used in connection with the jury selection

process be *GRANTED*. It is ordered that defts. motion to dismiss or to suppress be *DENIED* It is ordered that the defts. motion to sever be *GRANTED*. It is ordered that if there is any further grand jury proceeding pertaining to this case the testimony should be reported, transcribed and given to defense counsel. It is ordered that the defts motion to strike is *DENIED*.

Jan. 23 Filed motion for continuance

Jan. 28 Filed motion for rehearing or reconsideration

Jan. 28 Filed defts. motion for enlargement of time to file pretrial motions

Feb. 2 Record of order setting hearing for 9:30 Feb. 5, 1976 on defts motionst for release and motions to vacate the order. severing trial of these defts. from of deft. Dennis Banks. Record of order granting defts motion to extend time file additional motions to 2/11/76. Record of order that ll defts within 1 district be present in court when any other deft in this case is present in

Feb. 5 Record of order granting Mr. Jones Motion to admit Mass. Attorney Lewis Gur___ for the purpose of this action on behalf of deft. Loud Hawk. Record of the deft. KaMook Banks motion for pretrial release. Ordered deft. be released of conditions of release plan approved by this court and deft. agree that the officer may make any additional rules for implementation of this plan so long as the rules are not inconsistent with the plan. Record of hearing deft. Loud Redner motion to reconsider the courts rulings under advisement in part. to set hearing prior to trial re destruction of evidence. Deft. directed to plant regarding informants in defense camp. Record of order that deft. Kansas banks has until 2/20/76 to file pretrial motions. Record of order that de

Loud Hawk and Redner submit another pre release plan.

Feb. 9 Filed order that (1) Counsel be provided at gov. expense copies of documents and materials from the official court records in Armsbury case (2) Counsel be provided copies of all samples reports and other documents which the clerk has submitted to the administrative office of the US Court regarding district of oregon jury selection plan since 1969. (3) Counsel will be permitted to inspect questionaires forms etc. (4) Counsel will be permitted to inspect and collect data from the slips drawn in open court since 1969 which have contained the names of jurors summoned for grand or petitioner jury. (5) Counsel be permitted to match the names of jurors to which reference is made in par. 3 for purposes of collecting data (6) Use of inference is made in par. 3 for purposes of collecting data (6) Use of info is limited neither counsel for deft. or for the gov. may use the inf. obtained in this order to harass, embarrass, or for the invasion of provacy of any person. The inf. should not be used by either party to acquire any further ind. concerning the lives etc. of the person. No public disclosure of the jurors names will be made.

Feb. 9 Filed defts mem, re third party release

Feb. 9 Filed order that defts. and each of them are released to the custody of Alan G. Deal, minister First Unitarian Church Portland, Oregon and such other individuals as he may direct according to said release agreement It is further ordered that defts shall report daily at or before the hour of 1:00 PM to said custodial person and that any failure to do so report shall adhere to the following conditions (1) shall personally appear at all hearing before this court. 92) Shall reside at 3534 S.W. Hood

St. Portland, Oregon and shall not leave the met. areas (3) Defts. shall obey all laws 2/9/76 ntfd. BE s 2/9/76

Feb. 9 Filed order show cause

Feb. 10 Filed Order that the order to show cause filed 2/9/76 and set for hearing 2/1076 is taken off the calendar until further notice of the court 2/9/76 BE s 2/10/76

Feb. 11 Filed return of order to show cause exec. 2/9/76

Feb. 12 Filed order specifying methods and conditions of release on deft. Redner

Feb. 12 Filed order specifying methods and conditions of release on deft. Loud Hawk

Feb. 11 Filed deft. motion for additional peremptories

Feb. 12 Filed order to show cause m 2/12/76 BE 2/12/76

Feb. 12 Filed deft. motion for change in voir dire procedure

Feb. 12 Filed motion for native American Judge

Feb. 13 Filed affidavit of Eldon Olson

Feb. 13 Filed affidavit of William P. Zeller

Feb. 17 Record of order striking hearing on order to show cause set for 2/18/76 BE

Feb. 19 Filed deft. motion to preduce defense camp informants

Feb. 19 Filed deft. motion to preduce informants and for a pretrial hearing

Feb. 18 Record of conference: Ordered defts. oral smotion for continuance of trial granted and case continued from march 8th to May 12, 1976 deft. directed to file formal motion for continuance. At the request of the paties, order hearing on evidentiary motions set for march 22, 1976 at 9:30 AM BE

Feb. 20 Filed gov. designation of high risk

Feb. 23 Filed deft. motion for continuance

Feb. 23 Filed motion for permission to travel as to deft. REDNER

Feb. 25 Record of hearing deft. Ka Mooks motion for modif. of pretrial release plan for travel to ca-

lif. from 2/25/76 to 3/2/76. Ordered motion granted

Feb. 25 Filed motion to amend pretrial release plan m 2/25/76 BE s 2/25/76

Feb. 26 Record of hearing deft. Loud Hawk and Redner motion to modify conditions of to allow them to l to te state of Wash. on 3/1/76. Ordered motion granted

Feb 26 Filed order allowing travel for deft. REDNER m 2/25/76 BE s 2/26/76

Feb. 26 Filed order allowing travel for deft. Loud Hawk m 2/25/76 BE s 2/26/76

Mar. 2 Filed motion for permission for deft. and Loud Hawk to travel

Mar. 2 Filed motion and affidavit in support of motion for deft. to travel

Mar. 4 Record of hearing on defts. motion to travel Order allowing deft. to maint daily contact with ms. Lea. and provide address to Mr. Hawk. (3/4/–3/8/)

Mar. 11 Filed gov. response to defts. motion for additional peremptory challenges

Mar. 11 Filed gov. response to defts. motion for change in voir dire

Mar. 15 Filed gov. answer to defts. motion for search and disclosure of electronic or other surveillance

Mar. 19 Filed Govt's Response to defts Redner, Loud Hawk and KaMook Banks' Motion to produce informants and for a pretrial hearing

Mar. 17 Record of pre hearing conference. ordered portion of defts. motion to suppr evidence set for hearing at 9AM March 19, 1976 BE

Mar. 18 Filed gov. mem re destruction of dynamite

Mar. 19 Record of hearing defts. motion to suppress dynamite Evidence adduced. order hearing continued to March 22, 1976 at (9:30 AM) BE

Mar. 22 Filed testimony of James M. Key

Mar. 17 Filed gov. motion for trial in Pendleton, Oregon

Mar. 22 Filed list of exhibits and witnesses

Mar. 22 Record of hearing defts. Ka Mook Banks motion to join in the other defts motion order motion granted. Record of further hearing defts. motion to suppress ___Evidence adduced. ordered any briefs be submitted not later than March 24, unless either side requests oral arguement. Said request shall be made not later than March 25, 1976. Record of hearingts. motion for discovery Evidence Record of hearing defts. motion to suppress (general) Defts. directed to submit an amended motion within a resonable period of time. Record of hearing deft to disclose informants A § B Court to examine FBI agent Little in camera. US to disclose informants A § B Court to examine FBI agent Little in camera. U/A Record of hearing gov motion for trial in Pendleton, Oregon Ordered motion DENIED. Record of order setting arr. and plea for deft. Dennis Banks on April 13, 1976 at (AM. Record of hearing defts. motion for native American Judge U/A

Mar. 24 Filed response to gov. mem. re destruction of dynamite

Mar. 24 Filed transcript of Motions dated 3/22/76

Mar. 26 Filed motion for permission to travel

Mar. 26 Filed order that deft. Banks, Redner, and Loud Hawk be allowed to travel to Calif. from April 1, 1976 to April 12, 1976 on the condition that deft. main contact with attorneys m 3/29/76 BE s 3/26/76

Mar. 31 Filed order Granting Defts. motion to suppress

Mar. 31 Filed order (re; all motions heard on 3/22/76) see order for details.

Mar. 26 Filed supple. affidavit in support of defts. motion to disclosure elect. surv.

Mar. 26 Filed suppl. affidav. in supp. of defts. motion to prod. defense camp inf.

Mar. 29	Filed motion to amend travel order
April 5	Filed amended order for permission to travel m 4/6/76 BE s 4/2/76
(Nov. 26, 1975)	Record of FINDING that defts are indigent and can proceed in forma pauperis
1976	
April 13	Filed defts. motion for order to aid in challenge of grand and petit jury
Apr. 19	Filed Notice of Appeal by USA from the Order dated 3/30/76, filed 3/31/76 suppressing all evidence relating to dynamite
Apr. 20	Served a copy of the Notice of Appeal on all attorneys for appes and pon the court reporter
Apr. 20	Notified counsel of Rule 20 (Expedited Appeal)
Apr. 20	Mailed a certified copy of the Notice of Appeal, docket entries, and CJA Form 20 (VO s278292) to Court of Appeals
Apr. 13	Record of order appt. counsel for defts as follows. for defts Loud Hawk, Ron Schiffman, For defts. Redner, Sheila Lea and for deft. James Banks, Dennis Stenzel BE
Apr. 15	Filed letter indicating that the pretrial hearing set for 4/29/76 is continued to May 3, 1976 at 9:30 AM BE
Apr. 19	Filed order allowing travel to defts. REDNER to travel to (123) District of Calif. on April 27, 1976 and to return on May 1, 1976 speaking at Humbolt State College m4/20/76 BE s 4/19/76
Apr. 19	124). Filed order allowing travel to deft. REDNER to western District of Wash. on April 27, 1976 and to return April 23, 1976 m 4/20/76 BE s 4/19/76
Apr. 20	Filed motion for continuance on the part of the gov. and mem. Motion is DENIED m 4/20/76 BE s 4/20/76
Apr. 15	Record of in camera exam, of FBI agent Little, Court exam. agent Little under oath BE
Apr. 19	Record of conference. Ordered defts. REDNER oral motion for questionaires to be sent to ran-

	dom sampling of jurors who served from 1968 to 1972 granted. Court shall approve from and number of questionaires which are to be sent. ordered list of names and addresses of prospective jury panel be made available to counsel for defts. Counsel for gov. informs court it does not want a copy of this list. Ordered direct or indirect contact of prospective jurors, their neighbors, friends etc. is prohibited by either side, BE
Apr. 21	Filed gov. answer to defts. motion
Apr. 21	Filed gov. response to defts. banks motion for disc. etc.
Apr. 22	Filed and sealed transcript of in camera interview of Robert H. Little copy of envelope placed in file. Sealed env. placed in vault valuable exhibit drawer, Marshs box BE
Apr. 22	filed deft. motion to dismiss or in the alternative for an in camera pretrial hearing
Apr. 23	Filed motion to suppress personal papers and docu. of all defts. seized purs. to search warrant
Apr. 23	Filed supple. exhibit to defts. motion to dismiss or in the alt. for an in camera pretrial hearing.
Apr. 23	Filed motion to quash or dismiss the ind.
Apr. 23	Filed motion to require that the trial of this cause be held in a facility suff. large to acc. a number of members of the general public
Apr. 26	Record of conference. gov. informs court that it will not be ready for trial on May 12, 1976. Ordered no further hearings be held until decision on the court of appeals on gov. motion for appeal Ordered motion of KaMook Banks for leave to travel to S. Dakota from 4/26/76 to 5/2/76 granted BE
Apr. 30	Filed gov. answer todefts motion to have the trial held in a facility with an enloarged [*sic*] seating capacity
May 3	Filed gov. designation of record

May 4	Filed gov. renewed motion for continuance or in the alternative for a hearing on defts. motions to suppress and dismiss
May 4	File CJA 21 form appt. james Key
May 4	Filed gov. answer to defts motion to dismiss the ind. for alleged governmental misconudct.
May 12	Filed gov. answer to defts. motion for order to aid in challenge of grand and petit jury composition
May 12	Filed gov. answer to defts second motion to dismiss for gross gov. misconduct
May 12	Filed gov. supple. mem. in support of its renewed motion for continuance of the May 12, 1976 trial date
May 12	Record of time set for trial. Case called and gov. informs court it is not ready for trial Defts answer ready. Gov. renews its motions for handwriting exemplars from defts Dennis Bbanks and all other evid. motions. red dftsmotion to dismis the ind. with prejudice prus. to rule 48 (b) granted. and case dismised as to the defts. ordered bonds of these defts exon. Gov. moves to cont. defts. on OR pending its appeal Ruling made DENIED. Ordered gov. motion to continue subp. for gov. witnesses taken under advos. BE
May 14	Filed defts. motion and mem for court re dismissal with prejudice
May 14	Filed defts. opposition to gov. motion to extend life of subp.
May 17	Filed transcript of motion had on Dec 29, 1975
May 17	Filed transcript of motion had on Jan 23, 1976
May 17	Filed transcript of motion had on Feb 5, 1976
May 17	Filed transcript of hearing had on Apr 26, 1976
May 17	Filed transcript of Motion To dismiss had on May 17, 1976
May 17	Mailed RECORD ON APPEAL as follows:

1.3 certified copies of Clerk's Record (pleadings) pgs 1 thru 915 in 4 Volumes—VOLS. I, II, III & IV

2. Orig + two copies of Transcript of Motion had on on 12/23/75—VOL. V of Record On Appeal Orig + two copies of Transcript of Motion had on 12/29/75—VOL. VI of Record On Appeal Orig + two copies of Transcript of Motion had on 1/23/76—VOL. VII of Record On Appeal orig + two copies of Transcript of Motions had on 2/5/76—VOL. VIII of Record On Appeal Orig + two copies of Transcript of Motion To Amend Pretrial Release Plan, had on 2/25/76—VOL. IX Three copies of Transcript of Testimony of James M. Key, had on 3/19/76—VOL. X of Record On Appeal Orig + two copies of Transcript of Motions had on 3/22/76—VOL. XI of Record On Appeal Orig—two copies of Transcript of Hearing had on Apr 26, 1976 = VOL. XII of Record On Appeal Orig + two copies of Transcript of Motion To Dismiss had on May 12, 1976—VOL. XIII of Record On Appeal

May 12	Filed Notice of Appeal by USA from the Order dismissing the Indictment
May 18	Served copies of the Notice of Appeal on counsel
may 18	Mailed a certified copy of the Notice of Appeal, docket entries, and CJA Form 20 to Court of Appeals
May 21	Filed designation of record filed by the gov.
May 19	Filed Govt's Motion for an order continuing all subpoenas issued on behalf of the govt until disposition of the appeal or until further order of the court.
May 28	Mailed Record to Court of Appeals
June 29	Filed Affidavit in support of Extraordinary Attorney's fees.
July 8	Filed Govt's Answer to Defts' Motion to Suppress Personal Papers and Documents of All

defts Seized Pursuanto Search & General Motion to suppress

July 8 Filed Mot to suppl record on appeal (75–296–1)

July 9 Filed Ord suppl record on appeal m 7/21/76-ntfd-s BE 7/9/76

Aug. 3 Filed CJA 21 Form Authorization of Transcript

Aug. 13 Filed CJA 20 Form appointing Sheila Lea

9/22/76 Filed CJA 21 authorizing Joe Hertzberg to provide services

1977

Nov. 7 ORDER from c/a denying defts-appellees' emergency mot for continuance

1978

March 8 R1) ORDER of Remand—rec'd from 9th Circuit Court of Appeals

March 10 R2) Minute Order setting case for call at 9:30 a.m. 3/27/78 for the purpose of setting a hearing date to conduct, an evidentiary hearing based on the Court of Appeals' order of remand. BE

March 27 R3) Rec of call: Ord case cont'd to May 9, 1978, for evidentiary hrg based on Court of Appeals' remand ord. 1½ day. Defts' presence required unless waivers filed. BE

April 11 R4) Discovery Motion

April 18 R6) Gov't answer to deft Redner's Discovery Motion

May 3 R13) See docket entry 75-296-1 (R13) Loud Hawk.

May 8 R14) Gov'ts witness list for 5/9/78.

May 9 R15) Deft Mot excusing him from hrgs, etc., w/affid. ORD 5/9/78 BE

May 9 & 10 R16 thru R18) see Loud Hawk docket 75-296-1.

(8)** R 19) Govt's exhibit list for 5/8/78 hrg.

June 16 R20) ORD extendg time to file proposed findings of fact to & incl 7/14/78. s/e 6/16/78

July 14 R22) CJA auth of Ronald McReary expert witness.

Aug. 1 R23) Govts proposed findgs of fact pursuant to the 3/6/78 Ord of remand.

Aug. 1 R24) Dft's proposed findgs of fact upon remand.

Aug. 23 R26) Findings of fact & conclusions of law. s/e/m 8/23/78BE

Aug. 31 R27) Transcript of Evidentiary hrg of 5/19/78. BE

1980

March 17 R29) MANDATE from C/A reversing and remanding decision of district court with instructions

March 20 R30) ORD from Supreme Court that petition for Writ of Certiorari is Denied

April 2 R31) ORD that case is set for status call on 4/14/80 at 9 a.m.—see dkt on Redner. s BU 4/2/80

April 16 ( ) Rec'd from C/A exhibits & transcripts (see ltr infile)

April 14 R32) Rec of hrg on pending matters—see dkt #1

April 14 R33) List of Motions fld but not decided (fld by Michael Bailey for dfts KaMook and Dennis Banks)

April 14 R34) Waiver of Appearance of Dennis Banks

April 14 R35) Waiver of Appearance of KaMook Banks

April 14 R36) WAIVER Of Appearance of Russ Redner

April 16 R37) Supplemental List of Motions Fld but Not Decided fld by Lynn Parkinson

April 23 R40) ORD that case is assigned to Judge Redden. Schedules fixed by Judge Juba will be ahered to, except as may be changed by Judge Redden. BU 4/23/80

April 24 R41) Dfts mot for Enlargement of Time to File Pre-Trial Motions-fld by atty Parkinson

April 28 R43) Mot for Disclosure of Electronic Surveillance (fld by atty Parkinson for dfts)

April 28 R44) Mot To dismiss Denial of Speedy Trial—(fld by atty Rose for dfts)

April 29 R45) Rec of ord granting dfts' motion for enlargement of time to file pre-trial motions. Pretrial motion to be fld by 5/12/80 (no oppos to Mot #41 has been fld) Redden

April 39 R46) Ord Specifying Methods and cond of Release (dft Redner)

May 12 R50) Dft Redner's Mot For Enlargement of time to file pretrial Motions
R53) Mot To Suppress Evidence (fld by atty Stern for dfts)
R54) Rec of status conf—see dkt #1
R56) CJA 20 aptg Lynn Parkinson for dft Redner

May 28 R65 Rec of status conf: Ord that all briefs be fld by June 9, responses w/in 12 days thereafter. (cnsl to submit stipulated list of motions for determination). Ord setting hrg time 9:30 a.m. 6/23/80 on motions. Redden

June 9 R75 Affidavit of Cnsl—S. Lynn Parkinson for dft Redner

June 18 R81 SUPERSEDING INDICTMENT
26 USC 5861(d) & 5871 and 18 USC 2 Possession of explosive Device; Possession of Explosive Device with no Registration COUNTS 1,2,3,4, 18 USC 922(k), 924(a), & 2 Possesion Firearms with Obliterated Serial Numbers COUNT 5

June 20 R82
thru
R84)SEE DKT 76-296-1

July 7 R92 Mot To Dismiss Cts 3 and 4 for Insufficient Allegations (fld by atty Parkinson)

July 7 R92 Mot To Suppress Evidence of Pretrial Photographic Identification and Tainted Potential Courtroom Identification (fld by atty Parkinson)

July 7 R94 Transcript of Proceedings dated June 23, 1980 before Judge Redden

Aug. 5 R118 Rec of hrg on motions—see dkt on dft #1

Aug. 8 R120 ORD re motions heard 8/5/80—see dkt on dft #1

Aug. 8 R121 ORD that the case of Leonard Peltier is severed from remaining dfts. s RE 8/8/80

Aug. 12 R122 Amended ORD of ord dated 8/8/80 (documt #R120) s/m/e RE 8/12/80

Aug. 12 R123 Rec of ord setting pretrial cond 8/25/80 at 10:30 a.m. before Judge Redden

Aug. 12 R123 Rec of hrg on motions—see dft #1

Aug. 14 R126 Rec of reconsideration of ord denying dfts mot for aptmt of Investiggator at Govt expense. Ord granting dfts mot for appt of Investigator at expense of govt. RE

Aug. 14 R127 Rec of ord that dfts cnsl be furnished a list of prospective jurors w/address of same. RE

Aug. 21 R130 NOTICE OF APPEAL a from deft. from the amended order entered 8-12-80.
(()) No fees pd- appointed counsel.
(()) Mailed copy of notice of appeal to USM, Probation, Parkinson Redner and Youngman.
(()) Mailed copy of notice of appeal, docket, order to court of appeals.

Aug. 25 R134 Designation of Reporter's Transcript (Redner)

Aug. 26 R135 Ex-Parte Mot for Aptmt of Cnsl on appeal and paymt of Transcript Production w/supporting affidavit (Redner)

Aug. 26 R136 Affidavit of Cnsl (Redner)

Aug. 26 R137 Rec of ord striking trial date and staying proceedings as to all dfts-pending appeal.

Aug. 29 R138 Rec of ord denying dfts mot to reconsider mot to produce informants and mot for

disclosure of the identity of all informants. RE

Sept 4 R143 Rec of ord granting mot of dft Russ Redner for aptmt of Lynn Parksinson as cnsl for purposes of appeal. Further ord granting preparation of transcripts at govt expense. RE

Sept. 8 R145 ORD for Time Schedule from C/A (Redner)

Sept. 12 R149 Ord for time Schedule from C/A

Sept. 24 R151 Trans of Proceedings dated 5/12 and 5/28 1980 before Judge Redden

Sept. 24 R152 Trans of Proceedings of testimony of Sidney Rubin dated 6/23/80 before Judge Red

Sept 24 R153 Trans of Hrg on Motions dated 6/24/80 before Judge Redden

Sept. 24 R154 Trans of Hrg on Motions dated 8/5/ and 9/12/80 before Judge Redden

Sept. 25 R155 Supplemental Designation of Transcript

Sept. 26 R156 Transcript of Proceedings dated 11/18/75 before Judge Juba

Sept 26 R157 Transcript of Proceedings dated 11/26/75 before Judge Juba

Sept 26 R158 Transcript of Proceedings dated 12/8/75 before Judge Juba

Sept. 26 R159 Transcript of Proceedings dated 4/14/80 before Judge Juba

Oct. 2 R160 Discovery material provided by the Govt (Volume I and II)

Oct. 6 R161 ORD from C/A that appellants' mot of Sept. 25, 1980 for extension of time to file opening brief is granted

Oct. 15 (()) Appellants designation of clerks received.

Oct. 22 (()) Appellees designation of clerk received.

Oct. 23 (()) Mailed record on appeal to court of appeals.

Oct.**16 162b) CJA 20 appointing S. Lynn Parkinson.

1981

Feb 3 R182) CJA 20 aptg Lynn Parksonson FINAL VOUCHER

1983

Jan 31 R 190 MANDATE from C/A. Appeals are dismissed as to appellants Dennis Banks, Redner, and Loud Hawk for lack of jurisdiction; reversed in part as to appellant Ka-Mook Banks.

R191 ORD from S/C Petition for a writ of certiorari is denied.

Feb 1 R193 ORD setting S.R. Mon., 2/14/83 at 3:00 P.M. before Judge Redden.

Feb 3 R194 ORD striking S.R. of 2/14/83 & RESETTING to Wed., 3/9/83 at 9:00 A.M.

Feb. 18 R195 ORD changing time only to 1:00 p.m. for Stat. Hrg. 3/9/83.

Feb. 25 R196 Rec of ord setting trial date April 11, 1983 commencing at 9:30 a.m. RE

Mar 1 R197 Mot For ORD of Ex Delay. AUSA moves for ORD extending time for trial to commence between wk of May 16, 1983 and Aug 8, 1983,—Afdt attached

Mar. 9 R198 Rec of Ord setting following Sched: March 24, 1983 8:30 a.m. Status conf regarding discovery, hrg on dfts mot for aptmt of expert to assist in jury selection, and hrg on other jury motions pending, hrg on dfts mot for search & disclosure of electronic or other surveillance.

Ord—dfts to file any new motions by March 21, govt response due March 28. Hrg April 6, 1983 9:30 a.m. arraignmt of dfts on this date unless cnls file the necessary motions 30 days prior to this date. (Hrg on dfts mot in limine and 3rd mot to dismiss for govt misconduct)

ORD—trial of this case shall commence on May 3, 1983 at 9:30 a.m. (jury 10 day strike trial date of 4/11)

ORD denying Mr. Schiffman's oral mot to be relieved as cnsl for Loud hawk

March 10 R199)Rec of in camera submission of documents relating to dfts mot to determine electronic surveillance. Govts response submitted. Sealed documents submitted to Crt for in camera inspect.

March 10 R200)Notice of In Camera Submittsion

March 10 R201)Govts Response to DFts Second Mot for Disclosure of Electronic Surveillance

March 14 R202)Letter from Judge Redden to Kenneth Stern re Ex parte Motions for Investigative Services and Travel Expenses

march 15 R203)See docket on Loudhawk

March 17 R204)See docket on Loudhawk

March 17 R205)Govts Mot for Discovery

March 17 R206)Transcript of Proceedings dated March 9, 1983 before Judge Redden

March 18 R207)See dkt on Loudhawk

March 18 R208)See dkt on Loudhawk

March 21 R209)Opinion and Order that the contents of the sealed exhibit shall not be disclosed. s/RE 3/21/83

R210)Mot to dismiss for abuse of Grand Jury process (filed by Parkinson on behalf of all dfts).

R211)Motion for order requiring discovery (filed by Parkinson on behalf of all dfts).

R212)Motion to dismiss for continued litigation is overly burdensome on the court and all parties (filed by Parkinson on behalf of all dfts).

R213)Discovery motion/Brady material (filed by Parkinson on behalf of all dfts).

R214)Ex Parte Motion for appointment of expert to assist defense in conduct of voir dire (REdner and Dennis Banks).

R215)Exhibit in Support of Dfts' (various) jury selection motions and for appointment of

expert (filed by Steenson on behalf of all dfts).

R216)See dkt on Loudhawk

March 22 R217)See dkt on Loudhawk

R218)Rec of conf. w/counsel: Court rptr present only for reporting presence of counsel. ORD striking hrgs scheduled 3/24/83 and 4/6/83.

March 23 R219)Rec of ORD: all responses and hearings on motions are deferred until further order of the court.

March 31 R220)See dkt on Loudhawk

R221)See dkt on Loudhawk

R222)See dkt on Loudhawk

April 11 R223)Rec of ORD: striking trial date May 3, 1983 and setting trial date of May 23, 1983. All motions to be filed by April 20, 1983. Mot hrg set May 9, 1983 at 2:00 p.m.

April 19 R224)Rec of ORD: setting conf. w/counsel Wed. 4/20/83 at 1:30 P.M.

April 20 R225)Rec of status conf: ORD all motions together w/ supporting memorandum be fld by 4/22 together w/list of motio s to be argued. ORD PTC 4/27 at 1:30 (re Banks dfts) ORD govt resp to motions due 4/27. ORAL ARg 4/29 at 1:30. ORD EVID HRG 5/6 at 1:30 (re jury motions)

ORD PTC May 16, 1:30. and May 23, 1983 at 1:30 p.m. *TRIAL DATE JUNE 13, 1983 9:00* (7–10 days jury)

Apr 22 R227)Supplemental Exhibits in Support of Mot for Trial in Absentia

Apr 22 R228)Memo of Law in Support of dfts' Mot to Dismiss for Abuse of Grand Jury Process (filed by atty Parkinson for all dfts).

Apr 22 R229)Memo of Law/Speedy Trial (filed by atty Rose for all dfts)

Apr 22 R230)Mot to Reconsider or Renw Dfts' Motions for Discovery of Defense Camp Informants (filed by atty Parkinson for Redner)Apr. 25R231)Not to Strike or in the alternative to Compel Election (filed by atty Schiffman for all dfts)

Apr. 27 R232)Vots Ans—see Loudhawk dkt

Apr. 27 R233)Govts Ans—see Louddhawk dkt

Apr. 27 R234)Govts Ans—see Loudhawk dkt

Apr. 27 R235)Govts Ans—see Loudhawk dkt

Apr. 27 R236)Govts Ans—see Loudhawk dkt

Apr. 27 R237)Govts Ans—see Loudhawk dkt

Apr. 27 R238)Rec of conference: Rec of exparty hrg mot for aptmt of expert to conduct independent poll re: voir dire of prospective jurors. Ord taking U/A RE

Apr. 28 R239)Govts Ans to Dfts Mot To Dismiss for Delay of Trial

Apr 29 R240)Rec of Mot Hrg. Hrg held on mot for further exculpatory matters, mot re defense camp informant and mot for dismissal. Ord ruling deferred; affidavits from counsel to be submitted as soon as possible. If further argument is needed, it will be sched.

ORD granting mot for appt of expert to assist in poll in part, limited to amt of $7500 and subject to approval of Judge Browning.

ORD setting argument on Mot to Dismiss (Loudhawk) for 5/6/83 (tentatively).

Apr. 29 R241)Affidavit of counsel in Support of Mot to Dismiss (Pretrial delay) (filed by Schiffman).

Apr. 29 R242)Affidavit (filed by Rose).

May 2 R243)ORD granting dft's mot for appt of expert to assist in poll, except that the total authorization is limited to $7,500. S/RE 5/2/83

R244)Mot to Strike Cts I–IV Insufficiency of Indictmt (fld by atty Schiffman)

May 6 R245)Rec of mot hrg: Dfts' Rule 16 smot for discovery—denied. Dfts' mot to dismiss (Grand Jury Misconduct)—denied.

Dfts' mot to dismiss (Burdensome)—denied.

Dfts' mot to Strike/Elect counts—U/A.

Dfts' mot for additional preempt. challenges— granted.

Gvt's mot for reciprocal discovery—granted.

Dfts' mot to change voir dire procedure—U/A.

Rule 16 mot for discovery—Govt submitted documents—except for witness statements. Affidavit of Mr. Parkinson submitted for in camera inspection, dfts Banks joined in affidavit. RE

May 9 R246)Affidavit of Counsel for Dft Redner in support of Mot to Dismiss (Pretrial Delay).

May 9 R247)Affidavit submitted for in camera inspection. Affidavit of L. Parkinson in support of Mot to Dismiss (Pretrial Delay) (sealed per RE 5/9/83

May 12 R248)ORD allowing aptmt of expert— Northwest Attitudes and Social Research, Inc.—see Loudhawk

May 12 R249)Govts Ans to Dfts' Mot to Strike Cts 1–4 for Failure to State a Crime

May 16 R250)see dkt on Loudhawk

May 16 R251)CJA 20 authorizing payment to Parkinson.

May 16 R252)see dkt on Loudhawk

May 19 R253)ORD that govt is auth. to w/draw from Clerk all exhibits entered into evid. by govt during the various pretrial hrgs for preparation for trial and to be used during trial. s/RE 5/19/83

May 19 R254)see dkt on Loudhawk

May 20 R255)(Dft's) Mot for Discovery

May 20 R256)(Dfts') Memo in Support of Mot for Disco ery.

May 20 R257)(Dfts') Ex Parte Mot for Authorization of transcript Duplication Expenses under 18 USC § 3006 (A)(e). SO ORD RE 5/20/83

May 9 R258) Rec of ORD: Ord that dfts' mot for Further Exculpatory Matter is denied based on the govt's assurance that it has produced all exculpatory materials.

Dfts' Mot to Dismiss for Failure to State a Crime-Denied

DFts' Mot in Limine—Denied

Dfts' Mot for Change in Voir Dire—Denied as Moot.

Dft D. Banks' Mot for Trial in Absentia—Denied as Moot

May 20 R259)OPINION that indictment is dismissed with prejudice as to all dfts. s/RE 5/20/83 m/e 5/20/83

May 20 R260)ORD that dfts' Mot to Dismiss is Granted. The indictment is dismissed w/prejudice as to all dfts. s/RE m/e 5/20/83

May 27 R261)(Govt's) Mot continuing each of the subpoenas previously served on its prospective witnesses pending resolution of any appellate proceedings or until further ord of ct. SO ORD RE 5/27/83

May 27 R262)(Govt's) Mot for ord auth it to depose each of its prospective witnesses in order to preserve their testimony for use at trial pursuant to Rule 51(a), Fed.R. Cr P. SO ORD RE 5/27/83

June 2 R263)See dkt on Loudhawk

June 2 R263)See dkt on Loudhawk

June 2 R264)(Govt's) Mot for an order directing the court rptr to transcribe proceedings of March 10, 1983, April 8, 1983, April 20,

1983, April 27, 1983, April 29, 1983, May 6, 1983 and May 16, 1983.

June 3 R265)Rec of Ord: setting aside orders entered May 27 (R261 and R262) (see minute entry).RE

Order setting Status Conf and mot hrg (re document #R263, R264, R261, R262) before Judge Redden 6/24/83 at 9:30 am

June 7 R266)Rec of Ord: dfts' responses to pending motions shall be filed by 6/17/83. RE

June 10 R267)Rec of Ord: striking hrg scheduled June 24, 1983 and resetting to June 30, 1983 at 12:00 noon.

Dfts allowed until 6/28/83 to file responses to motions. RE

June 13 R268)Govt's Objection to the Continuance in the 6/24/83 Hrg.

June 14 R269)Govt's Memo in Support of Post Dismissal Motions.

June 17 R270)NOTICE OF APPEAL by govt from Order dated May 20, 1983 dismissing Incitmt. no fees paid

June 17 R271)Ord for time Schedule

June 17 (()) Mld copy of the N/A to dft, USM, defense cnsl, & AUSA

June 17 (()) Mld copy of the N/A, dkt and ord to C/A

June 17 R272)Rec of ORD: that govt's request to strike the 6/30/83 hrg and reset it to 6/24/83 is DENIED. RE

June 20 R272)CJA Frm 20 authorizing payment to Parkinson (for dft Redner)

June 23 R274)Response to Govts Motions to Depose and To Continue Subpoenas (fld by Ronald Schiffman, atty for LoudHawk)

June 24 R275)Rec of ord: rescheduling hrg from 12:00 noon to 11:00 a.m. 6/30/83. RE

June 28 R276)see dkt on Loudhawk

June 29 R277)Transcript of Proceedings—see Loudhawk dkt

June 30	R278)Rec of hrg govts motions to Depose Witnesses, Continue SUbs, Transcribe in Chambers Proceedings, and or ord to file Govts Response to Proposed Plea Procedure re Dennis J. Banks Ord taking U/A. RE
June 30	R279)Letter from Charles Turner, US Attny
March 21 (out of order)	R216a)Mot To Dismiss For Delay of Trial (fld by atty Stern)
July 1	R280)(Govt's) Transcript Designation and Ordering Form
July 5	R281)ORDER declining to rule on govts motions fld after the appeal. s RE 7/5/83
July 5	R282)Letter from Kenneth Stern
July 6	R283)Transcript of Proceedings dated June 30, 1983 before Judge Redden
July 11	R284)Transcript of Proceedings dated march 3, 1976 before Judge Juba
July 19	R285)Transcript Designation and Ordering Form
July 28	R286)Transcript of Grand Jury Testimony of Clayton Kramer, Steven L. Hancock, David Milam and James Karolides of 6/17/80.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. 75-296-4

UNITED STATES OF AMERICA, PLAINTIFF

v.

DENNIS JAMES BANKS, DEFENDANT

RELEVANT DOCKET ENTRIES

1975	
Nov. 25	( ) Filed Indictment
Nov. 25	9) Issued warrant for arrest of deft (4100,000 cash or corp. surety requested)
Dec. 22	FILED SUPERSEDING INDICTMENT
Dec. 22	Issued warrant for arrest of deft. (100,000.00 cash or corp. surety)
Dec. 29	Filed return of warrant of arrest of deft. dated 11/25/75 superseded by warrant and indictment dated 12/22/75
1976	
Jan 30	Filed return of warrant for arrest of deft. exec. 1/26/76 in Calif.
Feb. 18	Record of conference: Ordered deft. oral motion for continuance granted and case continued from March 8, to May 12, 1976 defts. directed to submitt formal motion for continuance. At the request of the parties, ordered hearing on evidentiary motions set for March 22, 1976 at 9:30 AM BE
Feb. 20	Filed gov. designated high risk
Feb. 23	Filed deft. motion for continuance
Feb. 23	Filed deft. REDNER motion for permission to travel
March 21	Filed testimony of James M. Key
March 17	Filed gov. motion for trial in pendleton, Oregon
March 22	Filed list of witnesses and exhibits

March 22 Record of hearing defts. KaMooks Banks motion to join in the other defts. motions ordered motion granted. Record of further hearing defts. motion to suppress. evidence. Evidence adduced. ordered any briefs be submitted not later than march 24, 1976 under adv. unless side requests oral arguments Said request shall be made not later than march 25, 1976. Record of hearing defts. motion for discovery Evidence adduced. Record of hearing deft. general motion to suppress Deft. directed to submit an amended motion within a reasonable period of time. Record of hearing defts. motion to disclose informants A § B Court to examine FBI agent Little in Camera U/A/ Record of hearing gov. motion for trial in pendleton, Oregon Ordered motion denied. Record of order setting arr. and plea for deft. Dennis Banks on April 13, 1976 at 9 AM. Record of hearing deft., motion for native American Judge U/A/ BE

March 24 Filed transcript of motions dated 3/22/76

April 7 Received papers from U.S. Magistratres Office in C lif, Re; Defts. appearance here in Portland, Oregon on 4/13/76 before Judge Belloni

April 8 97) Filed notice of motion and motion for discovery inspection and copying. Bill of particulars

April 8 98) Filed motion for discovery and inspection and copying

April 8 99) Filed mem. of points and authorities in support of motion for discovery, inspection and copying

April 8100) Filed motion for bill of particulars

April 8 101) Filed mem. of points and authorities in support of motion for bill of particulars

April 8 102) Filed motion for discovery and evidence favorable to the deft.

April 8 103) Filed mem. of points and authorities in support of motion to produce evidence favorable to the deft.

April 8 104) Filed points and authorities in support of defts motion to disclose the identity of all informants and for an evidentiary hearing

April 8 105) Filed notice of motion and motion for disclosure of the identity of all informants and for an evid, hearing

April 8 106) Filed notice of motion and motion supple. to defts. motion for discovery, inspection and copying

April 8 107) Filed motion supple. to defts. motion for discovery, inspection and copying

April 8 108) Filed mem. of points and authorities in support of motion supple defts motion for discovery, inspection and copying

April 8 109) Filed notice of motion and motion for disclosure of Grand Jury Testi,

April 8 110) Filed mem. of points and authorities re disclosure of grandjury transcript

April 12 111) Filed defts. notice of motion and motion for disclosure of electronic or other surveillance & Affidavit of Dennis Roberts and Karen Spelke in support

April 12 112) filed order that the U.S. Attorneys office shall have to and including April 21, 1976 within which to respond to the pretrial motions filed by Dennis James Banks in the above case m 4/11/76 BE s 4/12/76

April 13 113) Record of Arraignment and pleas of Not guilty entered as to each of the 5 cts. of the ind. Deft gives true name as charged. ordered trial set May 12, 1976. Ordered hearing on all motions set April 29, 1976 at 9:30 AM. Ordered an 7 requested voire dire questions be submitted before April 29th. Ordered deft. may continue on present bail BE

April 13 114) Filed appearance bond received from Calif. Receipted in the $2,000.00

April 13 Filed defts. motion for order to aid in challenge of Grand and petiti jury composition

April 19 115) Filed Notice of Appeal by USA from the Order dated 3/30/76, filed 3/31/76 suppressing all evidence relating to dynamite

April 20 Served a copy of the Notice of Appeal on all attorneys for appellees and upon the court reporter

April 20 Notified counsel of Rule 20 (Expedited Appeal)

April 20 Mailed a certified copy of the Notice of Appeal, docket entries, and CJA Form 20 (VO#27892) to Court of Appeals

April 13 Record of order appt. counsel for defts as follows. for defts. Loud Hawk, Ron Schiffman, or defts. Redner, Sheila Lea, and for defts. Dennis Banks Dennis Stanzel

April 15 Filed letter indicating that the pretrial hearing set for April 29, 1976 has been rescheduled for May 3, 1976 at 9:30 AM BE

April 20 Filed gov. motion for continuance, DENIED m 4/20/76 BE s 4?20?76

April 15 Record of in camera exam of FBI agent Little. Court exam agent Little under oath. BE

April 21 Filed gov. answer to defts. motions

April 21 Filed gov. answer to defts. banks motions etc.

April 22 Filed notice of appearance of counsel

Aapril 22 Record of filing and sealing transp. in camera interview of Robert Little Copy of env. placed in file. Sealed enc. placed in vault valuable exh. drawer BE

April 22 Filed defts. motion to dismiss or in the alternative for an in camera pretrial hearing

April 23 Filed motion to suppress personal papers and doc. of all defts. seized pursuant to search warrant

April 23 Filed motion to dismiss cts. I, 2 and 3 for negligence suppression of evidence relevant to the

charged and nes. to the preparation of a defense

April 23 Filed motion to dismiss ind. for gross gov. misconduct

April 23 Filed suppl exhibit to defts motion to dismiss or in the alternative for an in camera pretrial hearing

April 23 Filed motion to quash or dismiss the ind. etc.

April 23 Filed motion to require that the trial of this case be held in a fac. suff. larger to hold members of the general public

April 26 Record of conference. Gov. informs court that it will not be ready for trial on May 12, 1976. Ordered no further hearings he held until decision of the court of appeals of gov. appeal. Ordered motion of KaMooks Banks for leave travel to S. DAKOTA from 4/26/76 to 5/2/76 is granted Be

April 30 Filed gov. answer to defts motion to agve the trial held in a facility with an enlarged seating capacity

April 30 134) Filed second motion to dismiss for gross gov. misconduct

April 30 135 Filed gov. motion to compel handwriting exempars

April 30 136) Filed gov. answer to the motion fo deft. Banks to dismiss Ct I, II, III Of the ind.

May 3 Filed gov. designation of record

May 4 Filed gov. renewed motion for continuance or in the alternative for hearing defts motions to suppress and dismiss

May 3 Filed CJA 21 form appt. james Key

May 4 Filed gov. answer to defts. motion to dismiss the ind. for alleged governmental misconduct

May 12 Filed gov. answer to defts. motion for order to aid in challenge of grand and petit jury composition

May 11 Filed gov. answer to defts second motion to dismiss for gross gov. misconduct

May 11	Filed gov. suppl. mem in support of its renewed motion for a continuance of the May 12, 1976 trial date.
May 12	Record of time set for trial. Case called in and gov. informs the court it is not ready for trial. Defts. answer ready. Gov. renews its motions for handwriting exemplars from defts. Dennis Banks and all other eved. motions. ordered defts motion to dismiss the ind. with prejudice prus. to rule 48(b) granted. and case dismissed as to these defts. ordered bonds of these defts. exonerated. Gov. moves to continue defts. on OR pending its appeal. Ruling made and DENIED. Ordered gov. motion to continue subp. for gov. witnesses U/A BE
May 14	Filed defts. mem for court re dismissal with prejudice
May 14	Filed defts. opposition to gov. motion to extend life of the subp.
May 17	Filed Transcript of Hearing had on Apr 26, 1876
May 17	Filed Transcript of Motion To Dismiss had May 12, 1976
May 17	Mailed the following RECORD ON APPEAL: A. Three certified copies of Clerk's Record (pleadings)—pgs 1 thru 915 in Four volumes, VOLS. I, II, III & IV B. Orig + two copies of Transcript of Motion had on 12/23/75—VOL. V Orig ± two copies of Transcript of Motion had on 12/29/75—Vol. VI Orig + two copies of Transcript of Motion had on 1/23/76—VOL. VII Orig + two copies of Transcript of Motions had on 2/5/76—VOL. VIII Orig + two copies of Transcript of Motion To Amend Pretrial Release Plan, had on 2/25/76—VOL. IX Three copies of Transcript of Testimony of James M. Key, had on 3/19/76—VOL. X Orig + two copies of Transcript of Motions had on 3/22/76—VOL. XI

	Orig + two copies of Transcript of Hearing had on 4/26/76—VOL. XII Orig + two copies of Transcript of Motion To Dismiss had on 5/12/76—VOL. XIII
May 12	Filed Notice of Appeal by USA from the Order Dismissing the Indictment
May 18	Served a copy of the Notice of Appeal on all counsel
May 18	Mailed a certified copy of the 91) Notice of Appeal (2) docket entries, (3) and CJA Form 20 to Court of Appeals
May 21	Filed gov. designation of record
May 21	Filed order eonerating bond m 5/24/76 BE s 5/21/76
*May 19	Filed Govt's motion for an order continuing all subpoenas issued on behalf of the govt until disposition of the appeal or until further order of the c
May 20	Mailed Record to Court of Appeals
July 8	Filed Govt's Answer to Defts' Motion to Suppess Personal papers and Documents of All defts Seized pursuant ot search & General Motion to Suppress
July 8	Filed Mot suppl record on appeal
July 8	Filed Ord suppl record on appeal m 7/21/76-ntfd-s BE 7/9/76
Aug. 3	Filed CJA 21 Form Aughorization of Transcript
Nov. 10	Filed CJA 20 appointing Dennis Stenzel 1525 N.E. Weidler St. Portland, Oregon 288-5561
1978	
March 8	R1) ORDER of remand—rec'd from 9th Circuit Court of Appeals
march 10	R2) Minute Order setting case for call at 9:30 a.m. 3/27/78 for the purpose of setting a hearing date to conduct an evidentiary hearing based on the Court of Appeals' order of remand. BE
March 27	R3) Rec of call: Ord case cont'd to MAY 9, 1978 for evidentiary hrg based on C/A remand ord.

1½ days. Defts; presence required unless waivers filed. BE

April 12 R5) Waiver of Appearance by deft Banks for evidentiary hearing

May 3 R13) see docket entry R13 on 75-296-1 (LoudHawk)

May 8 R14) Govt's witness list ofr 5/9/78.

May 9&10 R16 thru R 18) see Loud Hawk docket 75-296-1.

May (8) **R19) Govt's exhibit list for 5/9/78 hrg.

June 16 R20) ORD extending time to file proposed findgs of fact to & incl 7/14/78. s/e 6/16/78 BE

August 1 R23) Govt's proposed findgs of fact pursuant to the 3/6/78 ORD or remand.

August 1 R24) Dft's proposed findgs of fact upon remand.

August 23 R26) Findings of fact & conclusions of law. s/e/m 8/23/78 BE

August 31 R27) Transcript of evidentiary hrg. of 5/9/78. BE

1980

March 17 R29) MANDATE from C/A reversing and remanding decision of district court with instructions

March 20 R30) ORD from Supreme Court that petition for Writ of Certiorari is denied

April 2 R31) ORD that case is set for status call on 4/14/80 at 9 a.m.—see dkt on Redner. s BU 4/2/80

April 16 (()) Rec'd from C/A exhibits & transcripts (see ltr in file)

April 14 R32) Rec of hrg all pending matters—see dkt #1

April 14 R33) List of Motions fld but not decided—fld by Michael Bailey for dfts kaMook and Dennis Banks

April 14 R34) Waiver of Appearance of Dennis Banks

April 14 R35) Waiver of Personal Appearance by KaMook Banks

April 14 R36) Waiver of Apperance by Russ Redner

April 16 R37) Supplemental List of Motions Fld but Not Decided (fld by Lynn parkinson)

April 24 R38) Notice of Appearance of Cns. kenneth Stern appears as local cnsl for Dennis Banks

April 24 R39) Second Supplemental List of Motions Filed But Not Decided (filed by kenneth Stern—atty for Dennis Banks)

April 23 R40) ORD case assigned to Judge Redden s BU 4/23/80

April 24 R41) Dfts Mot for Enlargement of Time to File Pre-Trial Motions (fld by L. parkinson0

April 24 R41) Dfts Mo for Enlargemt of time to File Pre-Trial Motions (fld by L. parkinson)

April 28 R43) Mot For Disclosure of Electronic Surveillance (fld by atty parkinson for dfts)

April 28 R44) Mot to Dismiss Denial of Speedy Trial (fld by atty Rose for dfts)

April 29 R45) Rec of ord granting dfts mot for enlargemt of time to file pre-trial motions. Pretrial motions to be filed by 5/12/80. (no oppos to Mot #41 has been fld) Redden

May 12 R51) Dfts Mot For enlargemt of time to File Pre-Trial Motions (D Banks)

May 12 R52) Supplemental Affidavit of Kenneth Stern in Support of Mot for Disclosure of Electronic or Other Surveillance

May 12 R53) Mot to Suppress Evidence (fld by atty Stern for dfts)

May 12 R54) Rec of status conf: see dkt #1

May 28 R61) Waiver of appearance of dfts Dennis Banks and Darlene Nichols

may 28 R63) ord Specifying Methods and Cond of Release (Dennis Banks)

may 28 R65) Rec of status conf: Ord all briefs be fld by June 9, responses to be fld w/in 12 days thereafter (consl to submit stipulated list of motions for determination). Ord setting hrg time 9:30 a.m. 6/23/80 on motions. Redden

May 28 R66) Dennis Banks—Mot To dismiss For Bad Faith prosecution

May 28 R67) Dennis Banks—Mot to Dismiss, Grand Jury Composition

May 28 R68) Dennis Banks—Mot For Change IN Jury procedure

June 9 R79) Mot To Amend Mot to Dismiss For Bad Faith Prosecution—fld by atty Stern for dfts and dft Banks)

June 18 R81) SUPERSEDING INDICTMENT
26 USC 5861 (d) & 5871 and 18 USC 2 Possession of explosive Device; Possession of Explosive Device with No Registration COUNTS 1,2,3,4
18 USC 922 (K), 924(A), & 2 Possession of Firearms with obliterated serial numbers COUNT 5
18 USC 1202(a) Possession of Firearms with Obliterated Serial Numbers COUNT 6

June0 R82–R84) See dkt 75CR296-1

June 24 R85) Affid of Kenneth S. Stern in suppt of mot to reconsider Disclosure of Defense Camp Informants and mot for discovery & Inspection. (C to RE).

July 75 R95) Mot For Change in Jury Selection Procedure (D. Banks)

July 7 R96) Mot To Dismiss: Grand Jury Composition (D. Banks)

July 7 R97) Mot To Dismiss For Vindictive Prosecution (D. Banks)

July 21 R102) Mot For Disclosure and production (D. Banks)

July 21 R103) Mot For Aptmt of Investigator at Govt Expense (D. Banks)

July 21 R104) Affidavits in Support of Mot For Aptmt of Investigator at Govt Expense: Mot For Disclosure and Production, and; Third Mot To Dismiss For Gross Governmental Misconduct

July 21 R105) Third Mot to Dismiss For Gross Governmental Misconduct

July 28 R114) Mot to Quash Indictmt or, In the Alternative, TO Strike

August 5 R118) Rec of hrg on motions—see dkt on dft #1

August 8 R120) Rec of ORD re motions heard 8/5/80—see dkt on dft #1

August 8 R121) ORD that case of leonard Peltier is severed from remaining dfts. s RE 8/8/80

August 12 R122) Amended ord of order dated 8/8/80 (documt #R120) s/m/e 8/12/80 Redden

August 12 R123) Rec of ord setting ptc for 8/25/80 at 10:30 a.m. RE

August 12 R124) Rec of hrg on motions—see dft #1

August 15 R125) NOTICE OF APPEAL from deft (Banks) from the amended order entered 8/12/80.

August 15 (()) no fees pd. cja appointment-retained.

August 18 (()) Mailed copy of notice of appeal to Stern, Roberts, Banks, Youngman, Turner, USM.

August 18 (()) Mailed copy of notice of appeal, cja form, docket to court of appeals.

August 14 R126) Rec of reconsideration of ord denying dfts mot for aptmt of Investigator at Govt Expense. ord Granting dfts mot for aptmt of Investigator at expense of govt. RE

August 14 R127) Rec of ord that dfts cnsl be furnished a list of prospective jurors w/ address of same. RE

August 15 R128) Ex parte Mot for Stay of Proceedings until such time as C/A decides issued in Appeal of ORD denying dfts Mot to Dismiss for Vindictive Prosecution. (D. Banks)

August 15 R129) Rec of ord granting dft Dennis Banks' ex parte mot for stay of proceedings. RE

August 21 R131) Designation of Reporters Transcripts—Dennis Banks

August 21 R132) CJA 20 aptg kenneth Stern for Dennis Banks—Interim Voucher #1

August 26 R137) Rec of ord striking trial date and staying proceedings as to all dfts-pending appeal. RE

August 29 R138) Rec of ord denying dfts' mot to reconsider mot to produce informants and mot for disclosure of the identity of all informants. RE

Sept. 8 R146) ord for Time Schedule for C/A (Dennis Banks)

Sept. 10 E147) Ex Parte Mot for Aptmt of Cnsl on Appeal and Paymt of Transcript production (Dennis Banks)

Sept. 10 R148) Rec of ord Granting dft Dennis Banks' mot for aptmt of cnsl on appeal and payment of transcript production at govt expense. RE

Sept. 12 R149) Ord from Time Schedule from C/A

Sept. 24 R151) Transcript—see dkt on Loudhawk

Sept 24 R152) Transcript—see dkt on Loudhawk

Sept. 24 R153) Transcript—see dkt on Loudhawk

Sept. 24 R154) Transcript—see dkt on Loudhawk

Sept. 25 R155) Supplemental Designation of Transcript

Sept. 26 R156) Transcript of Proceedings dated 11/18/75 before Judge Juba

Sept. 26 R157) Transcript of proceedings dated 11/26/75 before Judge Juba

Sept. 26 R158) Transcript of Proceedings dated 12/8/75 before Judge Juba

Sept. 26 R159) Transcript of proceedings dated 4/14/80 before Judge Juba

Oct. 2 R160) Discovery Material provided by the Govt (Volume I and II)

Oct. 6 R161) Ord from C/A that appeallants' mot of Sept. 25, 1980 for extension of time to file opening brief is granted.

Oct. 15 (()) Appellants designation of clerks received.

Oct. 22 (()) Appellees designation of clerks record received.

Oct. 23 (()) Mailed record on appeal to court of appeals.

Oct. **16 162c) CJA 20 appointing Kenneth S. Stern.

Nov 17 R166) ORDER mot of KaMook Banks to augment the record is granted. Banks will file

supplemental designation of record—material will be filed w/this court not later than 12/29/80 C/A

Nov. 12 R176) CJA 21 authorizing services of Ace Investigations

1981

Feb. 3 R183) CJA 20 aptg Kenneth Stern FINAL VOUCHER

1983

Jan 31 R190) MANDATE from C/A. Appeals are dismissed as to appellants Dennis Banks, Redner and Loud Hawk for lack of jurisdiction; reversed in part as to appellant Ka-Mook Banks.

R191) ORDER from S/C. Petition for a writ of certiorari is denied.

Feb. 1 R193) ORD setting S.R. Mon., 2/14/83 at 3:00 P.M. bbefore Judge Redden.

Feb. 3 R194) ORD striking S.R. of 2/14/83 & RESETTING to Wed., 3/9/83 at 9:00 a.m. before Judge Redden.

Feb. 18 R195) ORD changing time only to 1:00 P.M. for Stat Hrg 3/9/83.

March 9 R198) Rec of Ord setting sched.—see docket on Loud hawk

March 10 R199) Rec of in camera submission of documents relating to dfts' mot to determine electronic surveillance. Govt's response submitted. Sealed documents submitted to Crt for in camera inspect. RE

March 10 R200) Notice of In Camera Submission

March 10 R201) Govts Response to DFts' Second Mot for Disclosure of Electronic Surveillance.

March 14 R202) Letter from Judge Redden to Kenneth Stern re Ex Parte Motions for investigative Services and Travel Expenses

March 15 R203) See dkt on Loudhawk

March 17 R204) See dkt on Loudhawk

March 17 R205) Govts mot for Discovery

March 17 R206) Trans of Proceedings dated 3/9/83 before Judge Redden

March 18 R207) See dkt on Loudhawk

March 18 R208) See dkt on Loudhawk

March 21 R209) OPINION and ORD that contents of the sealed exhibit shall not be disclosed. S/RE 3/21/83

R210) Mot to dismiss for abuse of Grand Jury Process (filed by Parksinson on behalf of all dfts).

R211) Motions for order requiring discovery (filed by Parkinson on behalf of all dfts).

R212) Motion to dismiss for continued litigation is overly burdensome on the court and all parties (filed by Parkinson on behalf of all dfts).

R213) Discovery motion/Brady material (filed by Parkinson on behalf of all dfts).

R214) Ex Parte motion for appointment of expert to assist defense in conduct of voir dire (Redner and Dennis Banks).

R215) Exhibit in support of dfts' (various) jury selection motions and for appointment of expert (filed by Steenson on behalf of all dfts).

R216) Motion for trial in absentia or in the alternative, motion for trial with dft's electronic presence (Dennis Banks).

March 22 R217) Ex Parte ORD: travel expenses for counsel under the CJA not to exceed $600. are hereby ordered. No excludable delay has occurred in connection w/this matter. s/RE 3/22/83. (Dennis Banks)

R218) Rec of conf: court rptr present only for reporting presence of counsel. ORD striking hrgs scheduled 3/244/88 and 4/6/83.

March 23 R219) Rec of ORD: all responses and hearings on motions are deferred until further order of the court.

March 31 R220) Waiver of Appearance of Kamook and Dennis Banks.

R221) See dkt on Loudhawk

R222) Waiver of 30-day time limit between arraignment and trial. (Dennis Banks)

April 11 R223) Rec of ORD: striking trial date May 3, 1983 and setting trial date of May 23, 1983. All motions to be filed by April 20, 1983. Mot hrg set May 9, 1983 at 2:00 p.m.

April 19 R224) Rec of ORD: setting conf. w/counsel Wed. 4/20/83 at 1:30 P.M.

April 20 R225) Rec of statuus conf—see Loudhawk dkt. *TRIAL DATE SET JUNE 13, 1983* 9:00 (7–10 days jury)

April 22 R226) Govts Ans to Dfts Mot for Discovery

April 22 R227) Supplemental Exhibits in Support of MOt for Trial in Absentia (fld by atty Stern for Dennis Banks)

April 22 R228) Memo of Law in Support of dfts' Mot to Dismiss for Abuse of Grand Jury Process (filed by dft Parkinson for all dfts).

April 22 R229) Memo of Law/Speedy Trial (filed by atty Rose for all dfts)

April 22 R230) see dkt on Loudhawk

April 25 R231) Mot to Strike or in the alternative to Compel Election (filed by atty Schiffman for all dfts)

April 27 R232) Govts Ans—see Loudhawk Dkt

April 27 R233) Govts Ans—see Loudhawk Dkt

April 27 R234) Govts Ans—see Loudhawk Dkt

April 27 R235) Govts Ans—see Loudhawk Dkt

April 27 R236) Govts Ans—see Loudhawk Dkt

April 27 R237) Govts Ans—see Loudhawk Dkt

April 27 R238) Rec of Conf: Rec of exparty hrg mot for aptmt of expert to conduct independent poll re: voir dire of prospective jurors. Ord taking U/A. RE

April 28 R239) Govts Ans to Dfts Mot to Dismiss for Delay of Trial

April 29 R240) Rec of mot hrg. Hrg held on mot for further exculpatory matters, mot re defense camp informant and mot for dismissal. ORD ruling deferred; affidavits from counsel to be submitted as soon as possible. If further argument is needed, it will be sched. 5/6/83.
ORD granting mot for appt of expert to assist in poll in part, limited to amt of $7500 and subject to approval of Judge Browning.
ORD setting argument on Mot to Dismiss (Loudhawk) for 5/6/83 (tentatively).

April 29 R241) Affidavit of counsel is Support of Mot to Dismiss (Pretrial delay) (filed by Schiffman).

April 29 R242) Affidavit (filed by Rose).

May 2 R243) ORD sgranting dfts' mot for appt of expert to assist in poll, except that the total authorization is limited to $7,500. S/RE 5/2/83

May 4 May 4R244) Mot to Strike Cts I-IV Insufficiency of Indictmt

May 6 R245) Rec of mot hrg. Dfts' Rule 16 mot for discovery—denied.
Dfts' mot to dismiss (Grand Jury Misconduct)—denied.
Dfts' mot to dismiss (Burdensome)—denied.
Dfts' mot to Strike/Elect counts—U/A.
Dfts' mot for additional preempt. challenges—granted.
Gvt's mot for reciprocal discovery—granted.
Dfts' mot to change voir dire procedure—U/A.
Rule 16 mot for discovery—Govt submitted documents—except for witness statements. Affidavit of Mr. Parkinson submitted for in camera inspection, dfts Banks joined in affidavit. Re

May 9 R246) Affidavit of Counsel for Dft Redner in support of Mot to Dismiss (Pretrial Delay).

May 9 R247) Affidavit submitted for in camera inspection. Affidavit of L. Parkinson in support of Mot to Dismiss (pretrial delay) (sealed per RE 5/9/83).

May 12 R248) ORD allowing aptmt of expert— Northwest Attitudes and Social Research, Inc., etc.—see Loudhawk

May 12 R249) Govts Ans to Dfts Mot to Strike Cts 1–4 for Failure to State a Crime

May 16 R250) CJA Authorizing payment to Stern. (Banks)

May 16 R251) see dkt on Loudhawk

May 16 R252) see dkt on Loudhawk

May 19 R253) ORD that govt is authorized to w/draw from Clerk all exhibits entered into evidence by govt during the various pretrial hrgs for preparation for trial and to be used during trial. s/RE 5/19/83

May 19 R254) ORD that govt is authorized to offer into evidence and to otherwise use any transcripts of proceedings before Grand Jury which returned the 6/18/83 Superseding Indct during any proceedings involving proposed pleas of guilty by dfts D. Banks and KaMook Banks. s/RE 5/19/83

May 20 R255) (Dfts') Mot for Discovery.

May 20 R256) (Dfts') Memo is Support of Mot for Discovery.

May 20 R257) (Dfts') ExParte Mot for Authorization of Transcript Duplication Expenses under 18 USC 3006(A)(e). SO ORD RE 5/20/83

May 20 R258) Rec of ORD: ORD that dfts' mot for Further Exculpatory matter is denied based on the govts assurance that it has produced all exculpatory materials.
Dfts' Mot to Dismiss for Failure to State a Crime-Dened
Dfts' Mot in Limine—Denied
Dfts' Mot for Change in Voir Dire—Denied as Moot
Dft D. Banks' Mot for trial in Absentia—Denied as moot

May 20 R259) OPINION that indictment is dismissed with prejudice as to all dfts. s/RE 5/20/83 m/e 5/20/83

May 20 R260) ORD that dfts' Mot to Dismiss is Granted. The indictment is dismissed w/prejudice as to all dfts. s/RE m/e5/20/83

May 27 R261) (Govt's) Mot continuing each of the subpoenas previously served on its prospective witnesses pending resolution of any appellate proceedings or until further ord of ct. SO ORD RE 5/27/83

May 27 R262) (govt's) Mot for ord auth it to depose each of its prospective witnesses in order to preserve their testimony for use at trial pursuant to Rule 51(a), Fed. R. Cr. P. SO ORD RE 5/27/83

June 2 R263) (Govt's) Mot for an order directing Clerk to file the orig of Govt's response to the proposed plea procedure by dft Dennis Banks.

June 2 R264) (Govt's) Mot for an order directing the court rptr to transcribe proceedings of march 10, 1983, April 8, 1983, April 20, 1983, April 27, 1983, April 29, 1983, May 6, 1983 and May 16, 1983.

June 3 R265) Rec of Ord: setting aside orders entered May 27 (R261 and R262) (see minute order). RE

Order setting Status Conf. and mot hrg (re document #R263, R264,% 261 and R262) before Judge Redden 6/24/83 at 9:30 a.m.

June 7 R266) Rec of ORD: dfts' responses to pending motions shall be filed by 6/17/83. RE

June 10 R267) Rec of Ord: striking hrg scheduled June 24, 1983 and resetting to June 30, 1983 at 12:00 noon

June 10 Dfts allowed until 6/28/83 to file responses to motions. RE

June 13 R268) Govt' Objection to the Continuance in the 6/24/83 Hrg.

June 14 R269) Govt's Memo in Support of Post Dismissal Motions.

June 17 R270) NOTICE OF APPEAL by govt from ORD dated May 20, 1983 dismissing Indictmt. no fees paid

June 17 R271) Order for Time Schedule

June 17 (()) Mld copy of N/A to dft, USM, defense cnsl & AUSA

June 17 (()) Mld copy of N/A, dkt and ord to C/A

June 17 R272) Rec of ORD: that the govt's request to strike the 6/30/83 hrg and reset it to 6/24/83 is DENIED. RE

June 20 R273) See dkt on Loudhawk.

June 23 R274) Response to Govts Motions to Depose and To Continue Subpoenas (fld by atty Schiffman for dft Loud Hawk)

June 24 R275) Rec of Ord: rescheduling hrg from 12:00 noon to 11:00 a.m. 6/30/83. RE

June 28 R276) Response to Govt's Post-Dismissal Motions (filed on behalf of Dennis Banks, KaMook Banks, and Loudhawk).

June 29 R277) Transcript of Proceedings—see Loudhawk dkt

June 30 R278) Rec of hrg govts motions—see Loudhawk dkt. Ord taking U/A REDDEN

June 30 R279) Letter from Charles Turner, US Atty

March 21 (out of order) R216a) Mot To dismiss For Delay of Trial—fld by atty Stern

July 1 R280) (Gov'ts) Transcript Designation and Ordering Form.

July 5 R281) ORD declining to rule on govts motion filed after appeal. s RE 7/5/83

July 5 R282) Letter from Kenneth Stern re AUSA request to transcribe confidential proceedings.

July 6 R283) Transcript of Proceedings dated June 30, 1983 before Judge Redden

July 11 R284) Transcript of Proceedings dated march 3, 1976 before Judge Juba.

July 19 R285) Transcript Designation and Ordering Form

July 28 R286) Transcript of Grand Jury Testimony of Clayton Kramer, Steven L. Hancock, David Milam and James Karolides of 6/17/80.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. 75-296-5

UNITED STATES OF AMERICA, PLAINTIFF

v.

DARLENE PEARL NICHOLS, true name KA MOOK BANKS, DEFENDANT

RELEVANT DOCKET ENTRIES

11-18-75 First appearance:
Deft. admitted identity and was advised of rights.
Deft. waived removal hearing.
Filed Waiver of Removal Hearing.
Filed and Entered Order for Warrant of Removal.
CLOSED—to Clerk.

Nov. 25 1) Filed Indictment

Nov. 25 10) Issued warrant for arrest of deft ($100,000 cash or corp. surety requested)

Dec. 22 11) Filed defts. motion for pretrial release

Dec. 22 FILED SUPERSEDING INDICTMENT

Dec. 22 Issued warrant of arrest of deft. (100,000.00 cash or corp. surety)

Dec. 22 Record of order setting arr and plea for 12/29/75 RCB

Dec. 23 Record of hearing deft. Darlene Pearl Nichols motion for reduction for bail. Ordered motion granted and bail reducted to $20,000.00 cash or corp. surety. on following conditions: Deft. required to submit medical reports from a qualified and licensed physicians on a weekly basis to the court. deft. imform court and her attorney of any travel or address change. Deft. surrender herself to nearest U.S. Marshal as soon as she is able to travel but not

later than 1/19/76 noon. Deft. allowed to post bail in the district of Kansas RCB

Dec. 23 12) Filed order see above entry #11. 12/22/75 RCB 12/23/75

1976

Jan 12 Filed return of warrant for rest of deft. exec 12/8/75 by arresting the within named deft. and having her before the Magistrates in Kansas

Feb 2 Filed Motion for Pretrial Release

Feb 2 Filed Affidavit of Counsel in Support of Motion for Pretrial Release

Feb. 2 Filed papers received from the district of Wichita Kansas

Feb. 2 Filed CJA 20 papers appt. Michael Bailey

Feb. 2 Record of order appt. Michael T. Bailey as attorney for deft. Ordered deft. submit affidavit of forma pauperis status. Deft. gives her true name as KaMook Banks. Deft. arr. and pleas of NG entered. as to cts 1,2,3, and 4. Ordered case set for trial wk of 3/8/76 Record of hearing defts motion for pretrial release. Sworn witnesses. Ordered deft. submit plan to court. BE

Feb. 5 Filed order specifing methods and conditions of release RCB

Feb. 5 Record of order granting Mr. Jones motion to admit Mass. Attor Lewis Gurwitz for the purpose of this action on behalf of deft. Loud Hawk. Record of hearing deft. kaMook Banks motion for pretrial release. Ordered deft. be released on the conditions of release plan approved by this court and deft. agree that the probation officer may make any additional rules for implementation of this plan so long as the rules are not inconsistent with the plan. RECORD OF HEARING DEFTS. L Hawk and redners motion to reconsider the courts rulings U/D. in part. Court to set hearing

prior to trial re destruction of evidence. Defts directed to submit plant regarding informants in defense camp. Record of order that deft KaMook Banks has until 2/20/76 to file pretrial motions. Record of order that defts. Houd Hawk and Redner submit another pre trial release plan BE

sFeb. 13 Filed affidavit of Deft. Kamook Banks aka Darlene Nichols

Feb. 17 Filed joinder of motions

Feb.19 Filed deft. motion to produce defense camp informants

Feb. 20 Filed deft. motion to produce informants and for a pretrial hearing

Feb 18 Record of conference: Ordered deft. oral motion for continuance of trial granted and case continued from March 8, 1976 to May 12, 1976 Deft. directed to submit formal motion for continuance. At the request of the parties ordered hearing on evid. metions st. for March 22, 1976 at 9:30 AM BE

Feb. 20 Filed gov. designation of high risk

Feb. 23 Filed deft. motion for continuance

Feb. 23 Filed motion for permission to travel as to deft. REDNER

Feb. 25 Record of hearing deft. KaMooks Banks motion for modi. of pretrial release plan for trabel to calif. from 2/25/76 to 3/2/76 Order motion granted BE

Feb. 25 Filed motion to amend pretrial release plea for KaMook Banks m 2/25/76 BE s2/25/76

Feb. 26 Record of hearing deft. Loud Hawk and Redner motion for modification of release to allow them to travel to the state of Wash. on March 1, 1976

Ordered motion granted BE

Feb. 26 Filed order allowing travel for deft. Redner m 2/25776 BE s 2/26/76

Feb. 26 Filed order allowing travel for deft. Loud Hawk m 2/25/76 BE s 2/26/76

March 11 Filed defts. motion for transcript of previous proceedings

March 11 Filed Gov. response to defts. motion for additional peremptory challenges

March 11 Filed gov. response to defts. motion for change in Voir dire

March 15 filed gov. answer to defts. motion for search and disclosure of electronic or other surveillance

March 15 Filed motion for issuance of subp. at public expense with attached order

March 15 Filed order allowing defts. motion for issuance of subp. at public exp. m 3/12/76 J s 3/15/76

March 19 Filed govt's Response to Defts' Redner, Loud Hawk and KaMook Banks' Motion to produce informants and for a pretrial hearing

March 17 Record of pre hearing conference. Ordered portion of defts. motion to suppress evidence set for hearing at 9AM March 19, 1976 BE

March 18 Filed gov. mem re destruction of dynamite

March 19 Record of hearing defts. motion to suppres dynamite. Evidence adduced. ordered hearing continued to March 22, 1976 at ((9:30) AM BE

March 19 Filed affidavit of deft. in support of defts. motion to disclose defense camp informants and to produce informants A and B

Filed testimony of James M. Key

March 17 Filed gov. motion for trial in Pendleton, Oregon

March 22 Filed list of exhibits and witnesses

March 22 Record of hearing defts. KaMook Banks motion to join in the other defts. motions. Order granting. Record of further hearing deft. motion to suppress evidence. Evidence adduced. ordered aby briefs be submitted not later the march 24, 1976. Under advisement unless either side requests oral argum Siad request shall be made not later than march 25, 1976. Record of hearing defts. motion general motion to suppress. Defts. directed to submit an amended motion within a reasonable period of time. Record of hearing defts. motion to disclose informants A&B Court to examine agent Little in camera. U/A. Record of hearing gov. motion for trial in Pendleton, Oregon OrderDENIED. Record of order setting arr. and plea for deft. dennis banks April 13, 1976 at 9AM. Record of hearing defts. motion for native American Judge U/A BE

March 24 Filed response to gov. mem. re destruction of dynamite

March 24 Filed transcript of motions dated 3/22/76

March 26 Filed motion for permission to travel

March 26 Filed order that deft. Loud Haw, Redner and Banks be allowed to travel to a Calif. on April 1, 1976 to April 12, 1976 deft. to maintain daily contact m 3/29/76 BE s 3/26/76

March 31 Filed order granting defts. motion to suppress all evidence re dynamite

March 31 Filed order (re: motions heard on 3/22/76) see order for details

March 26 Filed supp.t affidavit in support of defts. motion to disc. electronic sur

March 26 Filed supple. affidavit in support of defts. motion to produce def. camp i

March 20 Filed motion to amend travel order

April 5 Filed amended order for permnission to travel m 4/6/76 BE s 4/2/76

April 13 Filed defts. motion for order to aid in challenge of grand and petit jury

April 19 Filed Notice of Appeal by USA from the Order dated 3/30/76, filed 3/31/76 suppressing all evidence relating to dynamite

April 20 Served a copy of the Notice of Appeal on all attorneys for appellees and upon the court reporter

April 20 Notified counsel of Rule 20 (Expedited Appeal)

April 20 Mailed a certified copy of the Notice of Appeal, docket entries, and CJA FORM 20 (VO.#278292) to Court of Appeals

April 15 Filed letter indicating that pretrial hearing set for April 29, 1976 to May at 9:30 AM BE

April 20 Filed motion for continuance DENIED m 4/20/76 BE s 4/20/76

April 15 Record of in camera exam, of FBI agent Little. Court exam agent Little under

April 20 Filed order allowing travel for Defts. Loud Hwk. and KaMook Banks to travel Seattle, Wash. on April 21, 1976 to April 23, 1976 attend at the Un. of Wash. a speaking engagement

April 21 Filed gov. answer to defts. motions

April 21 Filed gov. answer to defts. banks motions etc.

April 22 Filed notice of app. of counsel for BANKS

April 22 record of filing and sealing transc. in camera int. of Robert Little. Copy env. placed in file. Sealed env. placed in vault Valuable exh. drawer BE

April 22 Filed s. motionto dismiss or in the alternative for an in camera pretrial hearing

April 23 Filed motion to suppress personal papers and documents of all defts. Seize prs. to seach warrant

April 23 Filed suppl exhibits to defts motion to dismiss or in the alternative for camera pretrial hearing

April 23 Filed motion to quash ind. or to dismiss etc.

April 23 Filed motion to require that the trial be held in a facility suff. large to the general public

April 26 Filed motion to amend third party release plan traveling from April 26, 1976 to May 2, 1976 BE s 4/26/76 M 4/28/76

April 26 Record of conference. Gov. informs court this it will not be ready for tria May 12, 1976. Ordered no further hearings be held until decision of the of appearls on Gov. appeal. Ordered motion of KaMook Banks for leave

travel to south Dakcta from 4/26/76 to 5/2/76 granted BE

May 3 Filed gov. designation of record

May 3 Filed gov. renewed motion for cont. or in the alternative for hearing on df motion to suppress and dismiss

May 4 Filed CJA 21 form Appt. James Key

May 4 Filed gov. answer to defts motion to dismiss for alleged gov. misconduct.

May 12 Filed gov. answer to defts. motion for order to aid in challenge of grand and petit jury composition

May 11 Filed gov. answer to defts second motion to dismiss for gross gov. misconduct

May 11 Filed gov. suppl. mem in support of its renewed motion for a continuance of the May 12, 1976 trial date.

May 12 Record of time set for trial. Case called and gov. informs the court it is not ready for trial. Defts. answer ready. Gov. renews its motions for handwriting exemplars from defts. Dennis Banks and all other eved. motions. Ordered defts. motion to dismiss the ind. with prejudice prus. to rule 48 (b) granted. and case dismissed as to these defts. Ordered bonds of these defts. exonerated. Gov. moves to continue defts. on OR pending its appeal. Ruling made and DENIED. Ordered gov. motion to continue subp. for gov. witnesses U/A BE

May 14 Filed defts. mem for court re dismissal with prejudice

May 14 Filed defts. opposition to gov. motion to extend life of the subp.

May 17 Filed transcript of motion, had on 12/23/75

May 17 Filed transcript of Motions had on Feb 5, 1976

May 17 Filed transcript of Motion To Amend Pretrial Release Plan, had on Feb 25, 1976

May 17 Filed transcript of Hearing, had on Apr 26, 1976

May 17	Filed transcript of Motion To Dismiss, had on 5/12/76
May 17	Mailed the following RECORD ON APPEAL to Court of Appeals: A. 3 certified copies of Clerk's Record (pleadings) pgs 1 thru 915 in Four Volumes, VOLS. I, II, III & IV B. orig + 2 copies of Transcript of Motion had on 12/23/75—VOL. V of Record On Appeal Orig + 2 copies of Transcript of Motion had on 12/29/75—VOL. VI of Record On Appeal Orig + 2 copies of Transcript of Motion had on 1/23/76—VOL. VII of Record On Appeal Orig + two copies of Transcript of Motions had on 2/5/76—VOL. VIII of Record On Appeal Orig + two copies of Transcript of Motion To Amend Pretrial Release Plan, had on 2/25/76—VOL. IX 3 COPIES OF Transcript of Testimony of James M. Key, had on 3/19/76—VOL. X of Record On Appeal Orig + 2 copies of Transcript of Motions had on 3/22/76—VOL. XI of Record On Appeal Orig + 2 copies of Transcript of Hearing had on 4/26/76—VOL. XII of Record On Appeal Orig + 2 copies of Transcript of Motion To Dismiss had on 5/12/76—VOL. XIII of Record On Appeal
May 12	Filed Notice of Appeal by USA from the Order Dismissing the Indictment
May 18	Serviced a copy of the Notice of Appeal on all counsel
May 18	Mailed a certified copy of the Notice of Appeal, docket entries. and CJA Form 20 to Court of Appeals
May 21	FILED GOV. designation of record
May 19	Filed govt's motion for an order continuing all subpoenas issued on behalf of the govt until disposition of the appeal or until further order of the court
May 28	Mailed Record to Court of Appeals

July 8	Filed govt's Answer to Defts' Motion to suppress Personal papers and Document of all defts seized pursuant to search and General Motionto suppress
Aug. 3	Filed CJA 21 Form—Authorization of Transcript
Oct. 15	Filed Return of Warrant for Arrest of Deft. deft. arrested jan. 7, 1976.
1977	
Nov. 7	ORDER from c/a denying defts-appellees' emergency mot for continuance
1978	
March 8	R1) ORDER of remand—rec'd from 9th Circuit Court of Appeals
March 10	R2) Minute Order setting case for call at 9:30 a.m. 3/27/78 for the purpose of setting a hearing date to conduct an evidentiary hearing based on the Court of Appeals' order of remand. BE
March 27	R3) Rec of call: Ord case cont'd to may 9, 1978, for evidentiary hrg based on C/A remand ord. 1½ days. defts presence required unless waivers filed. BE
Apr 17	R7) Deft-appelle Ka-Mook Banks waiver of appearance at evidentiary hrg 5/9/78 BE
May 3	R13) See docket entry on 75-296-1 (Loud Hawk)
May 8	R14) Govt's witness list for 5/9/78.
May 9&10	R16 thru R18) see Loud Hawk docket 75-296-1.
Apr. (8)**	R19) Govt's exhibit list for 5/9/78 hrg.
June 16	R20) ORD extendg time to file proposed findgs of fact to & incl 7/14/78. s/e 6/16/78 BE
Aug. 1	R23) Govt's proposed findgs of fact pursuant to 3/6/78 Ord. or remand.
Aug. 1	R24)Dft's proposed findgs of fact upon remand.
Aug. 23	R26) Findings of fact & conclusions of law. s/e/m 8/23/78 BE
Aug. 31	R27) Transcript of evidentiary hrg of 5/9/78. BE

Oct. 30 R28) Retn of serv of BW. Retnd from kansas unexecuted.

1980

March 17 R29) MANDATE from C/A reversing and remanding decision of district court with instructions

march 20 R20) Ord from Supreme Court that petition for Writ of Cert is denied

April 2 R31) ORD that case is set for status call before the magistrate on Monday, April 14, 1980 at 9 a.m.—see dkt on Redner s BU 4/2/80

April 16 (())Rec'd from C/A exhibits & transcripts (see ltr in file)

April 14 R32) Rec of hrg all pending matters—see dkt #1

April 14 R33) List of Motions Fld but not Decided (fld by Michael Bailey for KaMook and Dennis Banks)

April 14 R34) Waiver of Appearance of Dennis Banks

April 14 R35) Waiver of Appearance by KaMook Banks

April 14 R36) Waiver of Appearance by Russ Redner

April 16 R37) Supplemental List of Motions fld but not Decided (fld by Lynn Parkinson)

April 23 R40) ORD that case assigned to Judge Redden s BU 4/23/80

April 24 R41) Dfts Mot For Enlargement ot Time to File Pre-Trial Motions (fld by L. Parkinson)

April 28 R43) MOt For Disclosure of electronic Surveillance (fld by atty parkinson for dfts

April 28 R44) Mot To Dismiss Denial of Speedy Trial (fld by atty Rose dfr dfts)

April 29 R45) Rec of ord granting dfts mot for enlargemt of time to file pretrial motions. Pretrial motions to be filed by 5/12/80. (no oppos to Mot #41 has been fld) Redden

May 9 R48) Mot For Aptmt of National Jury Project (fld by atty for Kamook Banks)

May 12 R53) Mot To Suppress Evidence (fld by atty Stern for dfts)

may 12 R54) Rec of status conf—see ddkt #1

May 12 R57) CJA 20 aptg Michael T. Bailey for Kamook Banks

May 28 R61) Waiver of Appearance of dfts Dennis Banks and Darlene Nichols

May 28 R64) ORD Specifying Methods and Cond of Release (Darlene Nichols,)

May 28 R65) Rec of status conf: Ord all briefs be fld by June 9, responses to be fld w/in 12 days thereafter (cnsl to submit stipulated list of motions for determination). Ord setting hrg time 9:30 a.m. 6/23/80 on motions. Redden

June 9 R76) Affidavit of Cnsl In Support of Motions—fld by M. Bailey for dft Ka-Mook Banks

June 18 R81) SUPERSEDING INDICTMENT
26 USC 5861(d) & 5871 and 18 USC 2 Possession of explosive Device; Possession of Explosive Device with No Registration COUNTS 1,2,3,4
18 USC 922(k), 924(a) & 2 Possession of Firearms with Obliterated Serial Numbers COUNT 5
18 USC 922(h),924(a), & 2 Possession of firearms with Obliterated Serial Number COUNT 7

June 20 R82–R84) See dkt 75CR296-1.
July 7R99) Mot To Dismiss For Preindictmt Delay—KaMook Banks

Aug. 5 R118) Rec of hrg of motions—see dkt on dft #1

Aug. 8 R120) ORD re motions heard 8/5/80—see dkt on dft #1
ORD that motion to dismiss is denied except as to dft aMook Banks. (dft KaMook Banks in dismissed) s RE 8/8/80

Aug. 12 R122) AMENDED ORDER—of order dated 8/8/80 (documt #R120) re Motion to Dismiss for Vindictive Prosecution—see ORDER s/m/e 8/12/80 Redden

Aug. 29 R138) Rec of ord denying dfts' mot to reconsider mot to produce informants and mot for disclosure of the identity of all informants. RE

Sept. 2 R139) NOTICE OF APPEAL by govt. from the amended order entered 8/12/80.
(()) No fees pd.—govt. appeal
(()) Mailed copy of notice of appeal to Youngman, Stern, Parkinson, Schiffman, USM, probation & Bailey
(()) Mailed copy of notice of appeal, docket to court of appeals.

Sept. 12 R149) Ord for Time Schedule from C/A

Sept. 17 R150) KaMook Banks—Designation of Transcript

Sept. 24 R151) Transcript—see dkt on Loudhawk

Sept. 24 R152) Transcript—see dkt on Loudhawk

Sept. 24 R153) Transcript—see dkt on Loudhawk

Sept. 24 R154) Transcript—see dkt on Loudhawk

Sept. 25 R155) Supplemental Designation of Transcript

Sept. 26 R156) Transcript of Proceedings dated 11/18/75 before Judge Juba

Sept. 26 R157 Transcript of proceedings see dkt on Loudhawk

Sept. 26 R158) Transcript of Proceedings see dkt on Loudhawk

Sept. 26 R159) Transcript of Proceeding see dkt on Loudhawk

Oct. 6 R161) Ord from C/A that appellants' mot of Sept. 25, 1980 for extension of time to file opening brief if granted.

Oct. 15 (()) Appellants designation of clerks record received.

Oct. 22 (()) Appellees designation of clerks record received.

Oct. 23 (()) Mailed record on appeal to court of appeals.

Oct. **16 162d) CJA 20 appointing Michael T. Bailey

Nov. 3 R164) ORD from C/A: Granting govt mot for extens of time.

Nov. 17 R166) ORD mot of KaMook Banks to augment the record is granted. Banks will file a sup-

plemental designation of record—material will be filed w/this court no later than 12/29/80 C/A

1981
Feb. 3 R184) CJA 20 aptg Ka-Mook Banks FINAL VOUCHER

1983
Jan. 31 R190) MANDATE FROM C/A. Appeals are dismissed as to appellants Dennis Banks, Redner and Loud Hawk for lack of jurisdiction. reversed in part as to appeallant Ka-Mook Banks.

1983
Jan. 31 R192) ORD from S/C. Petition for a writ of certiorari is denied.

Feb. 1 R193) ORD setting SR Mon., 2/14/83 at 3:00 PM before Judge Redden.

Feb. 3 R194) ORD striking SR of 2/14/83 & RESETTING to Wed., 3/9/83 at 9:00 A.M before Judge Redden.

Feb. 18 R195) ORD changing time only to 1:00 P.M. for Stat Hrg 3/9/83.

Feb. 25 R196) Rec of ORD setting trial date APirl 11, 1983 commencing at 9:30 a.m. RE

Mar 1 R197) Mot for ORD of Ex Delay. AUSA moves Court for ORD extending trial to between wk of May 16, 1983 and wk of Aug 8, 1983.—Afdt attached.

Mar. 9 R198) REc of ord setting sched—see docket on Loud Hawk RE

Mar. 10 R199) Rec of in camera submission of documents relating to dfts' mot to determine electronic surveillance. Govt's response submitted. Sealed documents submitted to Crt for in camera inspect. RE

Mar. 10 R200) Notice of In Camera Submission

Mar. 10 R201) Govt's Response to Dfts' Second Mot for Disclosure of Electronic Surveillance.

Mar. 14 R202) Letter from Judge Redden to Kenneth Stern re Ex Parte Motions for Investigative Service and Travel Expenses

Mar. 15 R203) See dkt on Loudhawk

Mar. 17 R204) See dkt on Loudhawk

Mar. 17 R205) Govts Mot For Discovery

Mar. 17 R206) Trans of Proceedings dated 3/9/83 before Judge Redden

Mar. 18 R207) See dkt on Loudhawk

Mar. 18 R208) See dkt on Loudhawk

Mar. 21 R209) OPENION and ORD that contents of the sealed exhibit shall not be disclosed. s/RE 3/21/83

R210) Motion to dismiss for abuse of Grand Jury process (filed by Parkinson on behalf of all dfts).

R211) Motion for order requiring discovery (filed by Parkinson on behalf of all dfts).

R212) Motion to dismiss for continued litigation is overly burdensome on the court and all parties (filed by Parkinson on behalf of all dfts).

R213) Discovery motion/Brady material (filed by Parkinson on behalf of all dfts).

R214) see dkt on Loudhawk

R215) Exhibit in Support of dfts (various) jury selection motions and for appointment of expert (filed by Steenson on behalf of all dfts).

R216) see dkt on Loudhawk.

Mar. 22 R217) see dkt on Lcudhawk

R218) Rec of conf w/counsel: court rptr present only for reporting presence of counsel. ORD striking hearings scheduled 3/24/83 & 4/6/83.

Mar. 23 R219) Rec of ORD: all responses and hearings on motions are deferred until further order of the court.

March 31 R220) Waiver of Appearance of Kakook and Dennis Banks.

R221) Waiver of 30-day time limit between arraignment and trial. (Kamook Banks)

R222) See dkt on Loudhawk.

April 11 R223) Rec of ORD: striking trial date May 3, 1983 and setting trial date of May 23, 1983. All motions to be filed by April 20, 1983. Mot hrg set May 9, 1983 at 2:00 p.m.

April 19 R224) Rec of ORD: setting conf. w/counsel Wed. 4/20/83 at 1:30 P.M.

April 20 R225) Rec of status conf—see Loudhawk dkt. *TRIAL DATE set JUNE 13, 1983 9:00* (7-10 days jury0 RE

April 22 R226) Govts Ans to DFts MOt for Discovery

April 22 R227) Supplemental Exhbits in Support of Mot for Trial in Absentia (fld by atty Stern for Dennis Banks)

April 22 R228) Memo of Law in Support of dfts' Mot to Dismiss for Abuse of Grand Jury Process (filed by atty parkinson for all dfts).

April 22 R229) Memo of Law/Speedy Trial (file by atty Rose for all dfts)

April 22 R230) see dkt on Loudhawk

April 25 R231) Mot to Strike or in the alternative to Compel Election (filed by atty Schiffman for all dfts).

April 27 R232) Govts Ans—see Loudhawk dkt

April 27 R233) Govts Ans—see Loudhawk dkt

April 27 R234) Govts Ans—see Loudhawk dkt

April 27 R235) Govts Ans—see Loudhawk dkt

April 27 R236) Govts Ans—see Loudhawk dkt

April 27 R237) Govts Ans—see Loudhawk dkt

April 27 R238) Rec of conf: Rec of exparty hrg mot for aptmt of expert to conduct independent poll re: voir dire of prospective jurors. Ord taking U/A RE

April 28 R239) Govts Ans to Dfts' Mot to Dismiss for Delay of Trial

April 29 R240) Rec of mot hrg. Hrg held on mot for further exculpatory matters, mot re defense camp informant and mot for dismissal. Ord ruling deferred; affidavits from counsel to be

submitted as soon as possible. If further argument is needed, it will be sched 5/6/83.

ORD granting mot for appt of expert to assist in poll in part, limited to amt of $750[illegible] and subject to approval of Judge Browning.

ORD setting argument on Mot to Dismiss (Loudhawk) for 5/6/83 (tentatively).

April 29 R241) Affidavit of counsel in Support of Mot to Dismiss (Pretrial delay) (filed by Schiffman)

R242) Affidavit (filed by Rose).

May 2 R243) ORD granting dfts' mot for appt of expert to assist in poll, except that the total authorization is limited to $7,500. S/RE 5/2/83

May 4 R244) Mot to Strike Cts I-IV Insufficiency of Indictmt

May 6 R245) Rec of mot hrg: Dfts' Rule 16 mot for discovery—denied.

Dfts' mot to dismiss (Grand Jury Misconduct)—denied.

Dfts' mot to dismiss (Burdensome)—denied.

Dfts' mot to Strike/Elect counts—U/A.

Dfts' mot for additional preempt. challenges—granted.

Gvt's mot for reciprocal discovery—granted.

Dfts' mot to change voir dire procedure—U/A.

Rule 16 mot for discovery—Govt. submitted documents—except for witness statements. Affidavit of Mr. Parkinson submitted for in camera inspection, dfts Banks joined in affidavit. RE

May 9 R246) Affidavit of Counsel for dft Redner in support of mot to Dismiss (Pretrial Delay).

May 9 R247) Affidavit submitted for in camera inspection. Affidavit of L. Parkinson in support of Mot to Dismiss (pretrial delay) (sealed per RE 5/9/83.)

May 12 R248) ORD for aptmt of expert, Northwest Attitudes and Social Research, etc.—see Loudhawk dkt

May 12 R249) Govts Ans to Dfts Mot to Strike Cts 1-4 for Failure to State a Crime

May 16 R250) see dkt on Loudhawk

May 16 R251) see dkt on Loudhawk

May 16 R252) see dkt on Loudhawk

May 19 R253) ORD that govt is authorized to withdraw from Clerk all exhibits entered into evidence by govt during the various pretrial hrgs for preparation ofr trial and to be used during trial. s/RE 5/19/83

May 19 R254) ORD that govt is auth to offer into evidence and to otherwise use any transcripts of proceedings before Grand Jury which returned the 6/18/83 Superseding Indct. during any proceedings involving proposed pleas of guilty by dfts D. Banks and KaMook Banks. s/RE 5/19/83

May 20 R255) (Dfts') Mot for Discovery

May 20 R256) (Dfts') Memo in Support of Mot for Discovery

R257) (Dfts') Ex Parte Mot for Authorization of Transcript Duplication Depenses under 18 USC 3006(A)(e).

R258) Rec of ORD: ORD that dfts' mot for Further Exculpatory Matter is denied based on the govt's assurance that it has produced all exculpatory materials.

Dfts' Mot to Dismiss for Failure to State a Crime—Denied.

Dfts' Mot in Limine—Denied

Dfts' Mot for Change in Voir Dire—Denied as Moot.

Dft. D. Banks' Mot for Trial in Absentia—Denied as Moot.

May 20 R259) OPINION that indictment is dismissed with prejudice as to all dfts. s/RE 5/20/83 m/e 5/20/83

May 20	R260) ORD that dfts' Mot to Dismiss is Granted. The indictment is dismissed w/prejudice as to all dfts. s/RE m/e5/20/83
May 27	R261) (Govt's) Mot continuing each of the subpoenas previously served on its prospective witnesses pending resolution of any appellate proceedings or until further ord of ct. SO ORD RE 5/27/83
May 27	R262) (Govt's) Mot or Ord auth it to depose each of its prespective witnesses in order to preserve their testimony for use at trial pursuant to Rule 51(a), Fed.R.Cr.P. SO ORD RE 5/27/83
June 2	R263) See dkt on Loudhawk
June 2	R264) (Govt's) Mot for an order directing the court rptr to transcribe the proceedings of March 10, 1983, April 8, 1983, April 20, 1983, April 27, 1983, May 6, 1983 and May 16, 1983.
June 3	R265) Rec of OrdL setting aside orders entered May 27 (R261 and R262) (see minute entry) RE
	Ord setting Status Conf. and mot nrg (re document #R263 R264, R261 and R262) before Judge Redden 6/24/83 at 9:30 a.m.
June 7	R266) Rec of ORD: dfts' responses to pending motions shall be filed by 6/17/83. RE
June 10	R267) Rec of Ord: striking hrg scheduled June 24, 1983 and resetting to June 30, 1983 at 12:00 noon.
	Dfts allowed until 6/28/83 to file responses to motions. RE
June 13	R268) Govt's Objection to the Continuance in the 6/24/83 Hrg.
June 14	R269) Govt's Memo in Support of Post Dismissal Motions.
June 17	R270) NOTICE OF APPEAL by govt of Ord dated may 20, 1983 dismissing Indictmt. no fees paid
June 17	R271) Ord for Time Schedule

June 17	(()) MLD copy of N/A, dkt and ord to C/A
June 17	(()) MLD copy of N/A to dft, USM, defense cnsl & AUSA
June 17	R272) Rec of ORD: that the govt's request to strike the 6/30/83 hrg and reset it to 6/24/83 is DENIED. RE
June 20	R273) see dkt on Loudhawk
June 23	R274) Response to Govts Motions to Depose and to Continue Subpoenas (bld by atty Schiffman, atty for Loud Hawk)
June 24	R275) Rec of Ord; rescheduling hrg from 12:00 noon to 11:00 a.m. 6/30/83. RE
June 28	R276) Response to Govt's Post-Dismissal Motions (filed on behalf of Dennis Banks, KaMook Banks and Loudhawk.
June 29	R277) Transcript of Proceedings—see Loudhawk dkt
June 30	R278) Rec of hrg govts motions—see Loudhawk dkt-ord taking U/A RE
June 30	R279) Letter from Charles Turner, US Atty
March 21	R216a) Mot To dismiss for Delay of Trial (fld by atty Stern) (out of order)
July 1	R280) (Govt's) Transcript Designation and ordering Form
July 5	R281) ORD declining to rule on govts motions filed after the appeal s RE 7/5/83
July 5	R282) Letter from Kenneth Stern RE AUSa request to transcribe confidential proceedings.
July 6	R283) Transcript of proceedings dated June 30, 1983 before Judge Redden.
July 11	R284) Transcript of proceedings dated March 3, 1976 before Judge Juba
July 19	R285) Transcript Designation and Ordering Form
July 28	R286) Transcript of Grand Jury Testimony of Clayton Kramer, Steven L. Hancock, David Milam and James Karolides of 6/17/80.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. CR 75-296

UNITED STATES OF AMERICA

v.

KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; AND ANNA MAE AQUASH, ALSO KNOWN AS ANNIE MAY PICTOU AND NAGUSET EASK, DEFENDANTS.

[Filed Nov. 25, 1975]

INDICTMENT
[26 U.S.C. Section 5861(d)
26 U.S.C. Section 5871
26 U.S.C. Section 5861(h)
18 App. U.S.C. Section 1202(a)]

THE GRAND JURY CHARGES:

COUNT I. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of: a) six (6) pocket watches, each with a hole drilled in the face with a metal screw inserted into the hole in a position to make contact with the moving hands of the watch, with a soldered battery connector and a ground wire attached with expended flashbulbs attached; b) four (4) batteries with wires attached; and c) two (2) expended flashbulbs with wires attached; and said device consisting of watches, timing devices, electrical blasting cap leg wires, wires, electrical blasting cap, detonating cord, batteries, and

seven (7) cases of Du Pont 70% dynamite, and said destructive device had not been registered to them in the National Firearms Registration and Transfer Record as required by Section 5841, Title 26, United States Code; in violation of Section 5861(d) and 5871, Title 26, United States Code.

COUNT II. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Valmet M 62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with metal stock, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT III. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, wooden stock, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT IV. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eaask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with wooden stock, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed

and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT V. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, metal stock, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT VI. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Colt AR-15 Cal. .223, Model SP1, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of S ections 5861(h) and 5871, Title 26, United States Code.

COUNT VII. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Swiss made, calibre 7.5mm Fed. Ord. Inc. So. El Monte, CA., which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT VIII. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER;

DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Smith & Wesson .357 Magnum, 4 inch barrel, round butt, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT IX. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a firearm, that is, a Smith & Wesson .357 Magnum, Model 19, round butt, 2½ inch barrel, which had its serial number, required by Section 5842, Title 26, United States Code, obliterated, removed, changed and altered in violation of Sections 5861(h) and 5871, Title 26, United States Code.

COUNT X. On or about November 14, 1975, in Malheur County, Oregon, DENNIS JAMES BANKS, defendant herein, a person who had been convicted by the Seventh Judicial Court, Custer, South Dakota, on July 26, 1975 of a felony, to-wit: riot while armed, did wilfully possess firearms, to-wit:

1) Safari De Luxe .30/06 rifle, Serial Number A 983 S with Williams peep sight;

2) 35 Remington, Woodmaster, Model 81, Serial number 31264;

3) Valmet M 62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with metal stock;

4) Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;

5) Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;

6) Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with metal stock;

7) Colt AR-15 Cal. 223, Model SP1, with obliterated serial number;

8) 12 gauge, Model Ten, Series 8 Police Shotgun, The High Standard Mfg. Corp. with Serial number 3210163;

9) 12 gauge Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Serial number 3224178;

10) Swiss made, calibre 75mm Fed. Ord. Inc. So. El Monte, CA., with obliterated serial number;

11) Remington Model 700, 7mm Rem. Mag. Serial number 337477;

12) Smith & Wesson .357 Magnum, 4 inch barrel, round butt, with obliterated serial number;

13) Smith & Wesson .357 Magnum, Model 19, round butt, 2½ inch barrel, with obliterated serial number;

which had previously moved in commerce, to-wit: from the State of Washington to the State of Oregon, all in violation of Section 1202(a), Title 18 Appendix, United States Code.

DATED this 25 day of November, 1975.

A TRUE BILL.

/S/ _____
FOREMAN

SIDNEY I. LEZAK
United States Attorney
District of Oregon

/S/ Tommy Hawk
TOMMY HAWK
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. CR 75-296

UNITED STATES OF AMERICA

v.

KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS, WHO GIVES HER TRUE NAME AS: KA MOOK BANKS; AND ANNA MAE AQUASH, ALSO KNOWN AS ANNIE MAY PICTOU AND NAGUSET EASK, DEFENDANTS

[Filed and Entered: Dec. 22, 1975]

INDICTMENT

[26 U.S.C. Section 5861(d)
26 U.S.C. Section 5871
26 U.S.C. Section 5861(i)
26 U.S.C. Section 5861(j)
18 U.S.C. Section 922(k)
18 App. U.S.C. Section 1202(a)]

THE GRAND JURY CHARGES:

COUNT I. On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; who gives her true name as KA MOOK BANKS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of: a) six (6) pocket watches, each with a hole drilled in the face with a metal screw inserted into the hole

in a position to make contact with the moving hands of the watch, with a soldered battery connector and a ground wire attached with expended flashbulbs attached; b) four (4) batteries with wires attached; and c) two (2) expended flashbulbs with wires attached; and said device consisting of watches, timing devices, electrical blasting cap leg wires, wires, electrical blasting cap, detonating cord, batteries, and seven (7) cases of Du Pont 70% dynamite, and said destructive device had not been registered to them in the National Firearms Registration and Transfer Record as required by Section 5841, Title 26, United States Code, in violation of Section 5861(d) and 5871, title 26, United States Code.

COUNT II. On or about November 14, 1975, in Malheur County, Oregon KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; who gives her true name as: KaMook Banks; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of: a) six (6) pocket watches, each with a hole drilled in the face with a metal screw inserted into the hole in a position to make contact with the moving hands of the watch, with a soldered battery connector and a ground wire attached with expended flashbulbs attached; b) four (4) batteries with wires attached; and c) two (2) expended flashbulbs with wires attached; and said device consisting of watches, timing devices, electrical blasting cap leg wires, wires, electrical blasting cap, detonating cord, batteries, and seven (7) cases of Du Pont 70% dynamite, and said destructive device was not identified by serial number as required by Section 5842(c), Title 26, United States Code, and 27 CFR 179.102; in violation of Sections 5861(i) and 5871, Title 26, United States Code.

COUNT III. On or about November 14, 1975, in Malheur County, Oregon KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS; who

gives her true name as KAMOOK BANKS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly did transport in interstate commerce a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of: a) six (6) pocket watches, each with a hole drilled in the face with a metal screw inserted into the hole in a position to make contact with the moving hands of the watch, with a soldered battery connector and a ground wire attached with expended flashbulbs attached; b) four (4) batteries with wires attached; and c) two (2) expended flashbulbs with wires attached; and said device consisting of watches, timing devices, electrical blasting cap leg wires, wires, electrical blasting cap, detonating cord, batteries, and seven (7) cases of Du Pont 70% dynamite, and said destructive device had not been registered as required by Section 5841, Title 26, United States Code; in violation of Section 5861(j) and 5871, title 26, United States Code.

COUNT IV. On or about November 14, 1975, in Malheur County, Oregon KENNETH MOSES LOUD HAWK; RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS; DARLENE PEARL NICHOLS who gives her true name as KAMOOK BANKS; and ANNA MAE AQUASH, also known as Annie May Pictou and Naguset Eask, defendants herein, wilfully and knowingly transported in interstate commerce, firearms which had their serial numbers removed and obliterated, that is:

1) a Valmet M62/S 7.62x39mm, Semi-Automatic Rifle, Interarms, with metal stock;

2) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with wooden stock;

3) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with wooden stock;

4) a Valmet M62/S 7.62×39mm, Semi-automatic Rifle, Interarms, with metal stock;

5) a Colt AR–15 Cal. .223, Model SP1;

6) a Swiss made, calibre 7.5mm Fed. Ord. Inc. So. El Monte, CA.;

7) a Smith & Wesson .357 Magnum, 4 inch barrel, with round butt;

8) a Smith & Wesson .357 Magnum, Model 19, with round butt, 2½ inch barrel; in violation of Title 18, Section 922(k), United States Code.

COUNT V. On or about November 14, 1975, in Malheur County, Oregon, DENNIS JAMES BANKS, defendant herein, a person who had been convicted by the Seventh Judicial Court, Custer, South Dakota, on July 26, 1975, of a felony, to-wit: riot while armed, did wilfully possess firearms, to-wit:

1) Safari De Luxe .30/06 rifle, Serial Number A 983 S with Williams peep sight;

2) 35 Remington, Woodsmaster, Model 81, Serial number 31264;

3) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms with obliterated serial number, with metal stock;

4) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;

5) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;

6) Valmet M62/S 7.62×39mm, Semi-automatic Rifle, Interarms, with obliterated serial number, with metal stock;

7) Colt AR-15 Cal. .223, Model SP1, with obliterated serial number;

8) 12 gauge, Model Ten, Series 8, Police Shotggun, The High Standard Mfg. Corp,. with Serial number 3210163;

9) 12 gauge Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Serial number 3224178;

10) Swiss made, calibre 7.5mm Fed. Ord. Inc. So. El Monte, CA., with obliterated serial number;

11) Remington Model 700, 7mm Rem. Mag. Serial number 337477;

12) Smith & Wesson .357 Magnum, 4 inch barrel, round butt, with obliterated serial number;

13) Smith & Wesson .357 Magnum, Model 19, round butt, 2½ inch barrel, with obliterated serial number;

which had previously moved in commerce, to-wit: from the State of Washington to the State of Oregon, all in violation of Section 1202(a), Title 18 Appendix, United States Code.

DATED this 22 day of December, 1975.

/s/ _____
Foreman

SIDNEY I. LEZAK
United States Attorney
District of Oregon

/s/ _____
TOMMY HAWK
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

No. CR 75-296

UNITED STATES OF AMERICA

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER; LEONARD PELTIER; DENNIS JAMES BANKS AND DARLENE PEARL NICHOLS, ALSO KNOWN AS KAMOOK BANKS, DEFENDANTS.

[Returned June 18, 1980]

SUPERSEDING INDICTMENT

[26 U.S.C. 5845(f)
26 U.S.C. 5861(d)
26 U.S.C. 5871
26 U.S.C. 5861(i)
18 U.S.C. 922(h)
18 U.S.C. 922(k)
18 U.S.C. 924(a)
18 U.S.C. 2
18 App. U.S.C. 1202(a)]

THE GRAND JURY CHARGES:

COUNT I

On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, LEONARD PELTIER, DENNIS JAMES BANKS, DARLENE PEARL NICHOLS, also known as KaMook Banks, defendant herein, and Anna Mae Aquash, also known as Annie May Pictou and Naguset Eask, a deceased co-defendant, knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of the following:

a) five (5) pocket watches each with a hole drilled in the face with a metal screw inserted into the hole in a position to make contact with hands of the watch, with a soldered battery connector and a ground wire attached;
b) four (4) batteries with wires attached;
c) two (2) expended flashbulbs with wires attached;
d) an Atlas electric blasting cap;
e) electrical blasting cap leg wires; and
f) seven (7) cases of DuPont 70% dynamite, and

said device consisting of the afore-mentioned items was a destructive device as defined by Section 5845(f), Title 26, United States Code, which had not been registered to the defendants or any of them in the National Firearms Registration and Transfer Record as required by Section 5841, Title 26, United States Code; all in violation of Section 5861(d) and 5871, title 26, United States Code, and Section 2, Title 18, United States code.

COUNT II

On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, LEONARD PELTIER, DENNIS JAMES BANKS, DARLENE PEARL NICHOLS, also known as Kamook Banks, defendants herein, and Anna Mae Aquash, also known as Annie May Pictou and Naguset Eask, a deceased co-defendant, knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of the following:

a) Five (5) pocket watches, each with a hole drilled in the face with a metal screw inserted into the hole in a position to make contact with the moving hands of the watch, with a soldered battery connector and a ground wire attached;
b) four (4) batteries with wires attached;
c) two (2) expended flashbulbs with wires attached;
d) an Atlas electric blasting cap;
e) electrical blasting cap leg wires; and
f) seven (7) cases of DuPont 70% dynamite, and

said destructive device as defined by Section 5845(f), title 26, United States Code, was not identified by serial number as required by Section 5842(c), title 26, United States Code,

and 27 CFR 179.102; all in violation of Sections 5861(i) and 5871, Title 26, United States Code, and Section 2, Title 18, United States Code.

COUNT III

On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, LEONARD PELTIER, DENNIS JAMES BANKS, DARLENE PEARL NICHOLS, also known as KaMook Banks, defendants herein, and Anna Mae Aquash, also known as Annie May Pictou and Naguset Eask, a deceased co-defendant, knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of the following:

a) Ensign Bickford safety fuse;
b) approximately 150 Atlas non-electric blasting caps; and
c) seven (7) cases of DuPont 70% dynamite, and

said device consisting of the afore-mentioned items was a destructive device as defined by Section 5845(f), Title 26, United States Code, which had not been registered to the defendants or any of them in the National Firearms Registration and Transfer Record as required by Section 5841, Title 26, United States Code; all in violation of Section 5861(d) and 5871, Title 26, United States Code, and Section 2, Title 18, United States Code.

COUNT IV

On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, LEONARD PELTIER, DENNIS JAMES BANKS, DARLENE PEARL NICHOLS, also known as KaMook Banks, defendants herein, and Anna Mae Aquash, also known as Annie May Pictou and Naguset Eask, a deceased co-defendant, knowingly possessed a destructive device consisting of a combination of parts designed and intended for use in converting a device into a destructive device; said combination of parts consisting of the following:

a) Ensign Bickford safety fuse;

b) approximately 150 Atlas non-electric blasting caps; and
c) seven (7) cases of DuPont 70% dynamite, and

said destructive device as defined by Section 5845(f), Title 26, United States Code, was not identified by serial number as required by Section 5842(c), Title 26, United States Code, and 27 CFR 179.102; all in violation of Sections 5861(i) and 5871, Title 26, United States Code, and Section 2, Title 18, United States Code.

COUNT V

On or about November 14, 1975, in Malheur County, Oregon, KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, LEONARD PELTIER, DENNIS JAMES BANKS, DARLENE PEARL NICHOLS, also known as KaMook Banks, defendants herein, and Anna Mae Aquash, also knwn as Annie May Pictou and Naguset Eask, a deceased co-defendant, did knowingly receive in interstate commerce certain firearms which had their serial numbers removed and obliterated, to-wit:

a) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with metal stock;
b) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with wooden stock;
c) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with wooden stock;
d) a Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with metal stock;
e) a Colt AR-15 Cal. .223, Model SP1;
f) a Swiss made, calibre 7.5mm Fed. ord. Inc. So. El Monte, CA.;
g) a Smith & Wesson .357 Magnum, 4 inch barrel, with round butt;
h) a Smith & Wesson .357 Magnum, Model 19, with round butt, 2½ inch barrel;

all in violation of Sections 922(k), 924(a) and 2, Title 18, United States Code.

COUNT VI

On or about November 14, 1975, in Malheur County, Oregon, DENNIS JAMES BANKS, defendant herein, a person who had been convicted by the Seventh Judicial

Court, Custer, South Dakota, on or about July 26, 1975, of a felony, to-wit: riot while armed, did knowingly receive and possess in commerce and affecting commerce certain firearms, to-wit:

a) 35 Remington, Woodsmaster, Model 81, Serial Number 31264;
b) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with metal stock;
c) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;
d) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;
e) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with metal stock;
f) Colt AR–15 Cal. .223, Model SP1, with obliterated serial number;
g) 12 gauge, Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Seriaumber 3210163;
h) 12 gauge Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Serial Number 3224178;
i) Swiss made, calibre 7.5mm Fed. ord. Inc. So. El Monte, CA., with obliterated serial number;
j) Remington Model 700, 7mm Rem. Mag. Serial Number 337477;
k) Smith & Wesson .357 Magnum, 4 inch barrel, round butt, with obliterated serial number;
l) Smith & Wesson .357 Magnum, Model 19, round butt, 2½ inch barrel, with obliterated serial number;

all in violation of Sections 1202(a), Title 18, Appendix, United States Code, and Section 2, Title 18, United States Code.

COUNT VII

On or about November 14, 1975, in Malheur County, Oregon, DARLENE PEARL NICHOLS, also known as KaMook Banks, defendant herein, being under indictment for crimes punishable by imprisonment for a term exceeding one (1) year, to-wit: Indictment number 75-193 in the United States District Court for the District of Kansas, did knwoingly receive certain firearms, to-wit:

a) 35 Remington, Woodmaster, Model 81, Serial Number 31264;
b) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms with obliterated serial number, with metal stock;
c) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;
d) Valmet M62/S 7.62×39mm, Semi-Automatic Rifle, Interarms, with obliterated serial number, with wooden stock;
e) Valmet M62/s 7.62×39mm, Semi-Automatic Rifle Interarms, with obliterated serial number, with metal stock;
f) Colt AR-15 Cal. .223, Model SP1, with obliterated serial number;
g) 12 gauge, Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Serial Number 3210163.
h) 12 gauge Model Ten, Series 8, Police Shotgun, The High Standard Mfg. Corp. with Serial Number 3224178;
i) Swiss made, calibre 7.5mm Fed. Ord. Inc. So. El Monte, CA., with obliterated serial number;
j) Remington Model 700, 7mm Rem. Mag. Serial Number 337477;
k) Smith & Wesson .357 Magnum, 4 inch barrel, round butt, with obliterated serial number;
l) Smith & Wesson .357 Magnum, Model 19, round butt, 2½ inch barrel, with obliterated serial number,

which firearms had been shipped and transported in interstate commerce; all in violation of Sections 922(h), 924(a) and 2, Title 18, United States Code.

DATED this 17 day of June, 1980.

A TRUE BILL.

/s/ _____
FREDERICK G. REEDER
FOREMAN

SIDNEY I. LEZAK
United States Attorney
District of Oregon

/s/ _____
WILLIAM W. YOUNGMAN
Assistant United States Attorney

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 76-1906

UNITED STATES OF AMERICA, APPELLANT,

vs.

KENNETH MOSES LOUD HAWK, ET AL. APPELLES

DEFENDANTS' OPPOSITION TO THE GOVERNMENT'S REQUEST FOR A STAY

Defendants respectfully urge this Court to deny the Government's request for a stay of the proceedings in the instant case for the below-stated reasons:

1) The Honorable Robert C. Belloni, Chief Judge of the District Court of Oregon, who has lived with this case since November, 1975 and is familiar with the government's conduct therein, and is therefore, in the best position to evaluate the validity of the government's stance in this matter, has forcefully rejected the government's request for a stay of the proceedings.

2) The affidavit of Sidney Lezak, United States Attorney for the District of Oregon certifies that said appeal "was not taken for the purpose of delay." Yet, in open court on April 26, 1976, Mr. Lezak admitted to Judge Belloni that the government will not be ready to go to trial on May 12, 1976 as earlier agreed, and Mr. Lezak made said statement in the face of Judge Belloni's admonition that such a posture would result in the dismissal of this case.

3) The government is highly unlikely to succeed in its appeal of the District Court's Order Suppressing Evidence, in spite of its contentions to the contrary, given the presumption of validity that must be accorded such suppression order, and given the weakness of the authority upon which the government intends to rely in support of its position. (See attached memorandum of Points and Authorities.)

4) The Defendants would be highly prejudiced by any stay of the proceedings in that such stay would generally abridge

their Sixth Amendment right to a speedy trial, and would cause specific hardship for the following reasons:

a) Defendants have labored under the enormous prejudice of being designated by the Government as high-risk individuals pursuant to 18 U.S.C. 3164, a designation which does violence to the presumption of innocence. Furthermore, such designation applied to them by the Government placed an enormous financial and emotional burden upon all the Defendants and their counsel requiring the preparation of a defense in a highly complex case within ninety days. Defendants have successfully met said burden, including completion of all motions on an extraordinarily tight briefing schedule caused by the government's designation of high risk, and Defendants stand ready for trial on a date mutually agreed upon two months ago by Judge Belloni, defense counsel and counsel for the Government.

b) To comply with the U.S. Attorney's Designation of High Risk, all counsel, including two out-of-state counsel, with numerous trial commitments, were forced to re-arrange their schedules, to the inconvenience of several state courts.

c) Pursuant to an order of the Honorable Frank Theis, U.S. District Judge in Kansas, the trial of KaMook Banks, one of the co-defendants in the instant matter, has been trailed pending completion of this case. Bail in that matter was set at $20,000 cash, which bail was posted with considerable hardship to the Defendant, and a stay of the instant case would unnecessarily tie up those bail funds which the Defendant needs to support herself and her two infant children.

d) Finally, Defendant Dennis Banks faces extradition proceedings in both Oregon and in California, on a demand for his return to South Dakota. Defendant Banks has strenuously resisted extradition to that jurisdiction because of direct threats against his life by the highest law enforcement officials of South Dakota. It has been made clear to counsel for Defendant Banks, that both Governors will weigh the final outcome of the instant matter heavily in their deliberations of a case which presents such serious issues. To further delay the trial in which Defendant Banks will be exonerated

jeopardizes a favorable resolution of these important state matters.

Therefore, Defendants, for all the above and foregoing reasons, respectfully urge this Court to deny the Government's Request for a Stay.

/s/ _____
DENNIS ROBERTS
On Behalf of All of the Defendants

DATED: APRIL 26, 1976

AFFIDAVIT OF DENNIS ROBERTS

DENNIS ROBERTS, after being duly sworn, deposes and says:

That I am the attorney of record for Defendant DENNIS JAMES BANKS, one of the co-defendants in the instant matter, and that I am licensed to practice before the California Superior Court and this Honorable Court.

That the co-defendants in this case filed formal discovery motions in this matter several months ago. The Assistant United States Attorney with prime responsibility for this matter several days ago advised one of counsel for a co-defendant that *all* discoverable material in the case had been turned over to the defendants, that no further discoverable material exists and reaffirmed the committment of the Office of the United States Attorney that as said material became available it would be turned over to the defendants and their counsel immediately.

On April 14, 1976 your affiant had a meeting with said Assistant United States Attorney who turned over discovery material and made the same representations.

On April 22, 1976 your affiant received a packet of materials from defense counsel in a federal criminal matter presently under prosecution in South Dakota involving the death of two F.B.I. agents in Oglala, South Dakota. One of the defendants in that case, LEONARD PELTIER, is a co-defendant in the instant matter. Said packet contained some of the discovery turned over to defense counsel in the Oglala case by the United States Attorney in that case. Among the items discovery provided therein were items extraordinarily exemplar of the instant defendants, including, *inter alia*, the identification of fingerprints of persons other than the instant defendant whose prints were found in the vehicles containing the alleged contraband which is the subject of the instant prosecution; and evidence that handwritten material found in said vehicles can not be favorably compared with handwriting exemplars provided by the defendants from when exemplars were obtained.

Suppression of the fingerprint evidence, in light of the fact that Defendant DENNIS JAMES BANKS was not present

when the vehicles were seized and that the Government's entire case against him is built on the hypothetical that since his prints were found in the vehicle he must have been the person who drove said vehicle a few hundred feet away from the scene, mandates a dismissal for gross governmental misconduct.

The evidence of fingerprints of persons other than defendant being found in said vehicles was transmitted by the F.B.I. Latent Fingerprint Section to Special Agent in Charge (SAC) Portland on *January* 21, 22 and 26, 1976. The exculpatory handwriting material was transmitted from F.B.I, Washington, D.C. to SAC, Portland on March 12 and 15, 1976. None of this material was ever turned over to the defendants by the Government herein. Said information is presently being prepared in motion form to be presented to Judge Belloni forthwith.

/s/ _____
DENNIS ROBERTS

Sworn to and subscribed before me this 26th day
of April, 1976,

_____
LINDA S. WILLIS
Notary Public

MEMORANDUM OF POINTS AND AUTHORITIES

The Government, according to its Notice of Appeal, intends to rely on three cases, one from the 7th Circuit, *U.S.* v. *Shafer*, 445 F2d 379 (7th cir. 1971) and two from this Circuit, *United States* v. *Trenery*, 473 F2d 680 (9th Cir 1973), and *United States* v. *Sewar*, 468 F2d 236 (9th Cir. 1972), all of which cases predates this Court's opinion in *United States* v. *Heiden*, 508 F2d 898 (9th Cir. 1974), upon which the District Court relied in its Order Suppressing Evidence of March 30, 1976.

All of the above-mentioned cases can be easily distinguished from the case at bar, which involves not only the destruction of all the explosive evidence without retention of even a sample of such evidence (See Order Suppressing Evidence p.6), but also, the totally unjustified destruction of the cardboard boxes and plastic bags within which the explosives were contained, and prior to any attempt according to the Government to obtain fingerprints therefrom, although fingerprints were obtained from virtually every surface of the vehicle and its contents in which said explosives were allegedly found. "The destruction of these articles eliminated the possibility that [the Defendants] could have presented evidence rebutting this charge: i.e. they might have been able to show their fingerprints were not on the dynamite containers." (See Order Suppressing Evidence, hereinafter referred to as Order, p. 4). Furthermore, the destruction of these containers, completely eliminated the possibility that the Defendants could have adduced whose fingerprints might have been on said containers. (See affidavit of Dennis Roberts).

United States v. *Trenary*, *supra*, is totally inapposite because there the destruction of the evidence was done by foreign officials in Mexico, and not by U.S. government officials. Here, the FBI participated actively in said destruction.

In *United States* v. *Sewar*, *supra*, the inadvertent loss of evidence by a technician who had no reason to realize that the evidence should be preserved for trial, stands in sharp contrast to the findings of the District Court herein. "The of-

ficers and agents who were present at and who conducted the destruction of the dynamite and *its containers* were experienced personnel. They must have known how sensitive this case would become and how material this evidence was to the case." (See Order, pp. 4 & 5).

In *United States* v. *Shafer*, *supra*, the government was not on notice by the 7th Circuit, as was the government in the 9th Circuit, that they are "flirting with danger of reversal any time evidence is lost or inadvertently destroyed." (*United States* v. *Heiden*, supra at 903, fn.1). Furthermore, in *Shafer*, a case not involving the question of constructive possession or the possibilty of culpability by persons other than the Deendant, the Court found no concrete prejudice to the defendant who had been given samples of the residue of the destroyed evidence as well as derivative evidence obtained therefrom. "Here, none was saved. Even the wrappers were scraped clean." (See Order, p. 6).

Finally, as regards the unnecessary and totally unexplained destruction of the containers prior to any attempt to obtain fingerprint evidence therefrom and to any "opportunity for defense analysis", but rather of intentional non-preservation of highly relevant evidence. "On a spectrum between good faith but inadvertent loss and bad faith destruction ... [the Government's] conduct must lie somewhere in the middle. Perhaps it should lie somewhat closer to the latter end." *United States* v. *Bryant*, 439 F2d 642, 647 (1971).

Therefore, for all of the above and foregoing reasons, Defendants urge that the authorities upon which the Government intends to rely and distinguishable on their facts and on the applicable law, and cannot support the certification by the United States Attorney herein, that based upon such authority, the Government's chances of succeeding are great.

Respectfully submitted,

/s/ _____
DENNIS ROBERTS
On Behalf of All
Defendants

DATED: April 26, 1976

EXCERPTS OF TRANSCRIPT OF DISTRICT COURT'S MAY 12, 1976 HEARING ON MOTION TO DISMISS

[3] THE COURT: Is the defendant Kenneth Moses Loud Hawk ready for trial?

MR. SCHIFFMAN: Ready, Your Honor.

DEFENDANT LOUD HAWK: Ready.

THE COURT: Is the defendant Russ James Redner ready for trial?

MR. GERWITZ Ready, Your Honor.

DEFENDANT REDNER: We're ready, Your Honor.

THE COURT: Is the defendant Dennis James Banks ready for trial?

DEFENDANT D. BANKS: Yes, Your Honor, ready.

[4] MR. ROBERTS: Ready.

DEFENDANT D. BANKS: Ready. Get it on!

DEFENDANT REDNER: Right on!

THE COURT: Is the defendant Ka-Mook Banks ready for trial?

DEFENDANT K. BANKS: Ready, Your Honor.

MR. BAILEY: Ready, Your Honor.

THE COURT: Well, do you have a motion to make, Mr. Roberts?

MR. ROBERTS: Yes, Your Honor. We would move that this case, pursuant to 48(b), be dismissed with prejudice. The reasons for the motion, the Government has been seeking one continuance and one delay after another. We stand ready for trial, as we have stood ready for trial these several months. Our defendants' rights under the Speedy Trial Act as well as the Constitution of the United States are being flagrantly violated by the dilatory tactics of the Government in this case.

We are ready for trial. We demand our trial, we demand our day in court now. We want our total and full exoneration by a jury. This is the day set by this Court many months ago for trial. We are ready and we need our trial today.

* * * * *

[5] THE COURT: Did you want to say something, [6] Mr. Turner?

MR. TURNER: Well, I want to—after the Court's finished, Your Honor.

THE COURT: About the nature—

MR. LEZAK: Actually, Your Honor, although the Court may have the right to dismiss the case even though the Government contests that, we would really like to be heard on whether or not, under United States Code Title 18 Section 3731, the conditions of release can be set aside by the Court and exoneration of the bail can be made even under the circumstances and even accepting the Court's view. At least we would appreciate the courtesy of a hearing on that matter, Your Honor.

THE COURT: Well, how can there be a continuation of bail restrictions when the indictment is dismissed?

MR. TURNER: Your Honor, because the statute provides for that. The Appeals Act 3731 specifically provides for release pursuant to the Bail Reform Act, and we would respectfully request that the Court impose conditions of release. While we don't object to the return of the cash and the exoneration of sureties, we feel that there should at least be a recognizance release and certain other restrictions [7] imposed by the Court upon the defendants; namely, that they respond to any court orders in the event that this indictment is reinstated and the Court's order of suppression is reversed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Criminal 75-296

UNITED STATES OF AMERICA

v.

KENNETH MOSES LOUD HAWK, ET AL., DEFENDANTS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

By its order of March 6, 1978, the Court of Appeals remanded this case for specific findings of fact as to questions listed in that order. I held an evidentiary hearing May 9 and 10, 1978. Based on evidence adduced at that hearing, I make the following findings of fact:

1. DID ANY AGENT OF THE FEDERAL GOVERNMENT PARTICIPATE IN THE DESTRUCTION OF THE EVIDENCE?

(a) *The search for, and possession of, the evidence destroyed.* The substance at issue, which I shall call dynamite for the purpose of these findings, was found in a station wagon which had been stopped by state police officer Griffiths pursuant to a federal All Points Bulletin. That bulletin directed that the vehicles mentioned in it not be stopped but that the FBI be notified should those vehicles be sighted. Officer Griffiths had not read the entire bulletin and stopped a motor home and the station wagon under the impression that the bulletin required it. The motor home and station wagon were towed to a garage in Ontario, Oregon, their occupants having escaped the scene of the stop. The stop took place at about 10:00 pp.m. on November 14, 1975. No search of the vehicles was done at the scene of the stop.

FBI agents participated in a search of the scene of the stop for fugitives and set up headquarters at the Oregon State Police Office in Ontario. By November 15, there were approximately 15 FBI agents in Ontario.

The motor home and station wagon were searched November 15 pursuant to a state search warrant at the garage in Ontario. No federal agent participated in the decision to obtain that warrant. About two federal agents were present at the garage during the entire search of both vehicles. Federal agents observed the search of both vehicles but did not participate directly except that federal agent Hancock entered the motor home on one occasion.

Firearms were found in the motor home, which was searched first, and federal agents were told of this fact. Federal agents then suggested that the station wagon be searched for firearms. State officers opened the station wagon and found the dynamite immediately. Federal agents did not participate physically in the search of the station wagon, and no federal warrant had been obtained. Federal agents did observe the search and photograph the dynamite as it appeared in the station wagon.

On November 16, the dynamite was transferred from the station wagon to a state police car by state officers. Federal agents did not participate physically but did observe and photograph the dynamite as it appeared in the trunk of the state police car. Federal agents did not advise or direct any action with respect to the removal or transportation of the dynamite. Federal agents made no request that any of the dynamite be preserved for their purposes. Had such a request been made, state police would have complied.

(b) *The decision not to transport the dynamite for safekeeping*. The decision not to keep the dynamite was made by Trooper Fettig of the state police, pursuant to an unwritten policy defined by his practice of six years before November 1975. Trooper Fettig's practice of destroying explosives was based on the lack of state storage facilities, problems with chain of custody and public safety considerations. Federal agents did not actively participate in Trooper Fettig's decision not to transport the dynamite for safekeeping. Federal agents were present and aware of Trooper Fettig's intended destruction of the dynamite and neither encouraged nor discouraged such action.

(c) *The decision to destroy, and the actual destruction of, the dynamite and containers.*

The decision to destroy, like the decision not to transport the dynamite, and containers was made by Trooper Fettig, pursuant to state police policy and in his discretion. No federal agent participated in this decision. Federal agent Milam, the only federal agent present at the destruction of the dhynamite and containers, rode with a state officer in a car following Trooper Fettig's to a gravel pit outside Ontario for the purpose of observing and photographing the destruction. Agent Milam neither encouraged nor discouraged the destruction of the dynamite and containers.

(d) *Any other actions or inactions relevant to the destruction of the evidence.*

John O'Rourke, Special Agent in Charge of Oregon, was in Ontario before the dynamite was destroyed. He knew that Beverly Axelrod, counsel for defendants was also in Ontario before the destruction of the dynamite. O'Rourke made no effort to inform Axelrod of the impending destruction of the dynamite, of which he was aware. Axelroad never asked O'Rourke to be allowed to witness the destruction of the dynamite. No representative of defendants witnessed the destruction.

(e) *Any other actions or inactions to preserve samples or secondary evidence.*

After destroying the dynamite, Trooper Fettig gave Federal Agent Milam seven wrappers from sticks of dynamite, which have been preserved by the federal government. Trooper Fettig scraped the dynamite from these wrappers for safety reasons before giving them to Agent Milam. Because of this scraping, it was not possible later to identify positively the substance which had been contained in the wrappers. Trooper Fettig retained, scraped and gave the wrappers to Agent Milam without any suggestion from Agent Milam (the only federal agent at the scene) that he do or not do any of these things.

Federal agents took photographs of the boxes of dynamite in the station wagon, in Trooper Fettig's car and at the destruction site. Federal Agent Milam photographed the actual destruction of the dynamite.

2. WHAT PREJUDICE, IF ANY, WAS SUFFERED BY THE DEFENDANTS AS A RESULT OF THE DESTRUCTION OF THE DYNAMITE?

Defendants were prejudiced to the extent that their inability to observe the destruction of the dynamite or to analyze samples of it deprived them of the opportunity to contest the government's conclusion that the substance destroyed was indeed explosive. Defendants' only argument on this point is now limited to analysis of the photographs of the destruction of the dynamite. The testimony of witness McCreary concerning the photographs of the destruction of the dynamite cast substantial doubt on the assertion that the photographs showed the detonation of dynamite. The fact that defendants were denied the opportunity to witness the destruction or to examine samples of the dynamite therefore appears to have prejudiced defendants substantially on the issue of the nature of the substance destroyed.

Defendants were also prejudiced by the destruction of the cartons and plastic bag which contained the dynamite in that they were deprived of the opportunity to determine by fingerprinting who might have handled these items.

Dated this 23rd day of August, 1978.

/s/ _____
United States District Judge

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 83-3067
No. CR 75-296-RE, USDC Or.

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

vs.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER,
DENNIS JAMES BANKS, KAMOOK BANKS,
DEFENDANTS-APPELLEES

DEFENDANTS-APPELLEES OPPOSITION TO GOVERNMENT'S MOTIONS TO STAY AND TO RECALL MANDATE

Defendant-Appellee DENNIS JAMES BANKS, by and through his counsel, Kenneth S. Stern of Rose & Stern, on behalf of himself and all other defendants-appellees most vigorously urges this Court to deny the Government's Motion to Stay and to Recall the Mandate issued in this case on January 16, 1985 and received by the District Court on January 18, 1985.

SUMMARY OF ARGUMENT

Since the mandate has issued, affirming Judge Redden's ORDER dismissing the indictment with prejudice, the Government's Motions to Stay Mandate and Recall Mandate are moot. Furthermore, under the circumstances of this case, this Court no longer has jurisdiction to grant the government's requested relief.

FACTUAL BACKGROUND

After this Court issued its opinion in late August of 1984, the Government filed its Petition for Reconsideration. That Petition was denied on January 8, 1985. Federal Rule of Appellate Procedure 41(b) requires a Motion for a Stay of Mandate Pending Application for Certiorari to be filed or the

mandate shall issue within 7 days after the petition for rehearing is denied. FRAP 41(a). As no such motion was filed. The mandate issued on January 16, 1985 and was received by the District court on January 18, 1985.[1] Defense counsel informed their clients that the receipt of the mandate put Judge Redden's ORDER dismissing the case into effect. They were informed that for the first time in ten years the Government was no longer actively trying to prosecute them. They were told that the case was dead.

Eight days after the burden of these charges was finally lifted from the defendants' lives, defense counsel received a MOTION to STAY MANDATE—and three days later a MOTION to RECALL MANDATE. Apparently the Government has not yet finally decided to let this case enjoy its quiet and well deserved death. However, the Government can point to no Rules of Appellate Procedure that provide this Court with the powers of resurrection.

ARGUMENT

MOOTNESS

The MOTION TO STAY MANDATE is clearly moot as it was filed *after* the mandate has been properly issued pursuant to FRAP 41.

LACK OF JURISDICTION

The "appellate process is terminated . . . when an appellate court issues its mandate of affirmance." *United States* v. *Cook*, 705 F.2d 351 (9th Cir., 1963).

Once a mandate issues jurisdiction is terminated. However, jurisdiction may be reasserted by recalling the mandate in some circumstances. This case does not represent one of those few circumstances.

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[1] The ORDER denying reconsideration is appended hereto as Exhibit "A", the first page of the mandate as Exhibit "B,", the MOTION TO STAY MANDATE as Exhibit "C," and the MOTION TO RECALL MANDATE as Exhibit "D." It should also be noted that defense counsel have not received serivce of any petition for certiorari to this date, and have no knowledge of any such petition having been filed.

Only where the mandate was erroneously issued, or where it must be changed in order to effectuate the judgement may it be recalled. Litigation is "settled" once a mandate issues, and it should be recalled "sparingly" and then only under "exceptional circumstances" where "good cause" is shown *Dilley* v. *Alexander*, 627 F.2d 407, 410 (D.C. Cir., 1980). See: Wright, 16 Federal Practice and Procedure Sec 3938 (pps 276-290) and 5B C.J.S. Sec. 1995-1996 (pps. 648-652).

The Government does not not allege any "good cause"[2] in its motion, and for good reason. This Court did not err in issuing its mandate, nor does the mandate need to be "corrected" in any fashion. Defendants know of no case that suggests that the Court has jurisdiction to recall the mandate in order to undo the effect of the Government's unexcused and unexplained failure to file a timely motion to stay mandate. Indeed, obvious policy considerations militate against granting the Government's requested relief, even if this Court did have jurisdiction.

Additionally, even if a Court can reassert jurisdiction by recalling a mandate in some circumstances, it is unclear whether it can do so once a criminal action has been dismissed. The issuance of a mandate puts "the appellate decision into effect." *Wald* v. *Regan*, 706 F.2d 794, 803 (1st Cir., 1983). The appellate court decision in the instant case was not one that merely returned jurisdiction to the District Court to proceed further. The mandate affirmed Judge Redden's ORDER dismissing this case with prejudice, and put said order into effect. In essence, it was the entrance of a "final judgement." See: *United States* v. *Tulare Lake Canal Co.*, 677 F.2d 713, 715 (9th Cir., 1982). This case was DISMISSED WITH PREJUDICE since January 16, 1985. It remains dismissed. In this circumstance, this Court has no jurisdiction to breathe life into it again—and any attempt to do so would profoundly impact defendant's constitutional rights, including, but not limited to, their rights to due process of the laws and to be free from cruel and unusual punishments.

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[2] In fact, the Government suggests no reason at all why the mandate should be recalled.

CONCLUSION

Once the mandate of this Court issues affirming a lower court, the "appellate process is terminated." *Catmitsch* v. *Ricsley*, 705 F.2d 351 (9th Cir., 1983). On January 19, 1985[3] for the first time in ten years, the defendants were advised that the word "dismissed" actually meant that the Government was both disinclined to continue prosecuting them, and barred from changing its mind. They were told that the "appellate process is terminated," Judge Redden's ORDER dismissing the case with prejudice had actually gone into effect. They were told that the Government could no longer appeal that ORDER. They were told that the issuance of the mandate meant that the case was over, finally.

For whatever reason, the Government chose not to file a Motion to Stay Mandate. The mandate issued, and has taken effect.

"History repeats itself—first as tragedy, then as farce." In 1976 the Government delayed unnecessarily, but was allegedly not sufficiently "forewarned" of the consequences of that delay. Rule 41 is its own forewarning. No timely motion to stay, as required by the rule, was filed. The mandate issued. This case is dismissed with prejudice, pursuant to the judgement of the Ninth Circuit. It may be pursued by the Government no further.

For all the foregoing reasons, counsel plead with this Court to deny the Government's motions.

Finally, it should be noted that counsel would be hard pressed to explain to their clients how the ressurrection of this case once the final death certificate has been filed by

[3] The day counsel received a copy of the mandate.

this Court does not support their perception of the "forked tongue syndrome."

Respectfully submitted,

ROSE & STERN,

/s/ _____

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Of Attorneys for Defendants-Appellees

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT COURT

No. 83-3067

UNITED STATES OF AMERICA, APPELLANT,

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS, A/K/A KAMOOK BANKS, APPELLEES

[Filed January 8, 1985]

Before: WALLACE AND CANBY, *Circuit Judges* and CRAIG*, *District Judge*

A majority of the panel as constituted above has voted to deny the petition for rehearing and suggestion for rehearing en banc.

The full court has been advised of the suggestion for rehearing en banc and no judge of the court has requested a vote on it.

The petition for rehearing is hereby denied and the suggestion for rehearing en banc is rejected.

EXHIBIT "A"

*The Honorable Walter Early Craig, Senior United States District Judge for the District of Arizona, sitting by designation.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No 83-3067
DC CV 75-296

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES RENDER, DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS, AKA KAMOOK BANKS, DEFENDANTS-APPELLEES

APPEAL from the United States District Court for the PORTLAND District of OREGON

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the PORTLAND District of OREGON

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is affirmed.

Filed and entered: AUGUST 30, 1984

EXHIBIT "B"

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 83-3067
No. CR 75-296-RE, USDC Oregon

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT,

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER,
DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS,
ALSO KNOWN AS KAMOOK BANKS,
DEFENDANTS-APPELLEES.

MOTION TO STAY MANDATE

The United States of America by Charles H. Turner, United States Attorney for the District of Oregon, moves the Court for an order staying the issuance of the mandate in the above case pending resolution of the Government's petition for certiorari.

Dated this 24th day of January, 1985.

Respectfully submitted,

/s/ _____

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EXHIBIT "C"

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 83-3067
No. CR 75-296-RE, USDC Oregon

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT

v.

KENNETH MOSSES LOUD HAWK, RUSS JAMES REDNER,
DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS,
ALSO KNOWN AS KAMOOK BANKS,
DEFENDANTS-APPELLEES.

MOTION TO RECALL MANDATE

The United States of America by Charles H. Turner, United States Attorney for the District of Oregon, moves the Court for an order recalling the mandate in the above case pending resolution of the Government's petition for certiorari.

Dated this 29th day of January, 1985.

Respectfully submitted,

/s/ _____

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EXHIBIT "D"

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT COURT

No. 83-3067

UNITED STATES OF AMERICA, APPELLANT,

v.

KENNETH MOSES LOUD HAWK, RUSS JAMES REDNER, DENNIS JAMES BANKS, AND DARLENE PEARL NICHOLS, A/K/A KAMOOK BANKS, APPELLEES

[Filed Feb. 28, 1985]

ORDER

Before: WALLACE AND CANBY, *Circuit Judges* and CRAIG*, *District Judge*

The motion of the United States to recall and stay the mandate is DENIED.

*The Honorable Walter Early Craig, Senior United States District Judge for the District of Arizona, sitting by designation.

Supreme Court of the United States

No. 84-1361

UNITED STATES, PETITIONER

v.

KENNETH MOSES LOUD HAWK, ET AL.

ORDER ALLOWING CERTIORARI. Filed *April 15, 1985.*

The petition herein for a writ of certiorari to the *United States Court of Appeals for the Ninth Circuit* is granted.